

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Sections 165 and 632
Title 14, California Code of Regulations
Re: Marine Protected Areas

- I. Date of Initial Statement of Reasons: January 15, 2007
- II. Date of Pre-adoption Statement of Reasons: March 19, 2007
- III. Date of Final Statement of Reasons: May 14, 2007
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: August 15, 2006
Location: Monterey, California
 - (b) Discussion Hearings: Date: February 2, 2007
Location: Monterey, California
 - (c) Adoption Hearing: Date: March 2, 2007
Location: Arcata, California
- V. Update:

The Initial Statement of Reasons (ISOR) contained regulatory sub-options within the Commission's preferred alternative for allowed take and marine protected area (MPA) boundaries for several marine protected areas. These sub-options included the following choices:

Año Nuevo -

Option 1: State Marine Reserve with no take allowed
Option 2: State Marine Conservation Area with limited commercial kelp take allowed.

Soquel Canyon -

Option 1: State Marine Conservation Area allowing take of pelagic finfish

Option 2: State Marine Conservation Area allowing take of pelagic finfish and commercial spot prawn trapping

Portuguese Ledge -

Option 1: State Marine Conservation Area allowing take of pelagic finfish

Option 2: State Marine Conservation Area allowing take of pelagic finfish and commercial spot prawn trapping

Edward F. Ricketts -

Option 1: State Marine Conservation Area allowing limited kelp harvest and recreational hook and line fishing in the entire area at all times.

Option 2: State Marine Conservation Area allowing limited kelp harvest and recreational hook and line fishing from the Monterey Breakwater between the hours of 6 p.m. Sunday and 6 p.m. Friday

Option 2a: State Marine Conservation Area allowing limited kelp harvest and recreational hook and line fishing from the Monterey Breakwater between the hours of 6 p.m. Sunday and 6 p.m. Friday with special allowance for angling by people with disabilities

Option 3: State Marine Conservation Area allowing limited kelp harvest and recreational hook and line fishing in the entire MPA between the hours of 6 p.m. Sunday and 6 p.m. Friday

Option 4: State Marine Conservation Area allowing limited kelp harvest and recreational hook and line fishing from the Monterey Breakwater between the hours of 6 a.m. Sunday and 6 p.m. Friday

Option 4a: State Marine Conservation Area allowing limited kelp harvest and recreational hook and line fishing from the Monterey Breakwater between the hours of 6 a.m. Sunday and 6 p.m. Friday with special allowance for angling by people with disabilities

Option 5: State Marine Conservation Area allowing limited kelp harvest and recreational hook and line fishing in the entire MPA between the hours of 6 a.m. Sunday and 6 p.m. Friday

Cambria (northern area) -

Option 1: State Marine Conservation Area allowing recreational take with more northerly boundaries

Option 2: State Marine Conservation Area allowing recreational take with more southerly boundaries

Cambria (southern area) -

Option 1: State Marine Reserve allowing no take with more northerly boundaries

Option 2: State Marine Reserve allowing no take with more southerly boundaries

Option 3: State Marine Conservation Area allowing limited commercial kelp take with more northerly boundaries

Option 4: State Marine Conservation Area allowing limited commercial kelp take with more southerly boundaries.

The Commission adopted the preferred alternative on April 13, 2007 with the following sub-option selections. Figure 1 displays the MPAs adopted by the Commission and Table 1 describes the allowed uses in each MPA:

Año Nuevo - Option 2 - Allow kelp harvest

Soquel Canyon - Option 1 - Prohibit spot prawn harvest

Portuguese Ledge - Option 1 - Prohibit spot prawn harvest

Edward F. Ricketts - Option 1 - Allow recreational hook and line fishing

Cambria (northern area) - Option 1 - Northerly boundaries

Cambria (southern area) - Option 3 - Northerly boundaries and allowing kelp harvest

A variety of typographical errors in the ISOR were corrected:

- In subsection 632(b)(27)(A) 122° 21.90' W. long. is actually 122° 21.80' W. long. in order to match the mean high tide line as described in the maps and regulation
- In subsection 632(b)(38)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(39)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(43)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(45)(A) a missing semicolon was added after the third set of coordinates
- In subsection 632(b)(46)(A) 121° 41.24' W. long. is actually 121° 41.25' W. long. in order to match the boundary coordinates in the area to the south as described in maps
- In subsection 632(b)(54)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(67)(A) a missing minutes symbol was added after the second longitude coordinate
- In subsection 632(b)(98)(A) an unnecessary semicolon was removed after the final coordinate

Figure 1. Marine protected areas included in the preferred alternative



SMCA = state marine conservation area SMP = state marine park
SMR = state marine reserve SMRMA = state marine recreational management area

Table 1. Marine protected areas adopted as the preferred alternative and summary of allowed uses.

MPA Name	Allowed / Disallowed Uses
Año Nuevo State Marine Conservation Area	Commercial take of giant kelp by hand
Greyhound Rock State Marine Conservation Area	Allows take of: Recreational finfish by hook and line from shore only Allows take of: Commercial and recreational giant kelp by hand, Salmon, and Squid in entire MPA
Natural Bridges State Marine Reserve	No take
Elkhorn Slough State Marine Reserve	No take
Elkhorn Slough State Marine Conservation Area	Allows take of: Recreational finfish by hook and line, recreational clams in area adjacent to DFG wildlife area in northwest.
Moro Cojo Slough State Marine Reserve	No take
Soquel Canyon State Marine Conservation Area	Allows recreational and commercial take of: Pelagic Finfish
Portuguese Ledge State Marine Conservation Area	Allows recreational and commercial take of: Pelagic Finfish
Edward F. Ricketts State Marine Conservation Area	Allows take of: Recreational finfish by hook and line, commercial kelp by hand north of 36° 36.83 N latitude with limits on monthly take.
Lovers Point State Marine Reserve	No Take
Pacific Grove Marine Gardens State Marine Conservation Area	Allows take of: Recreational finfish and commercial kelp by hand with limits on monthly take.
Asilomar State Marine Reserve	No take
Carmel Pinnacles State Marine Reserve	No take
Carmel Bay State Marine Conservation Area	Allows take of: Recreational finfish and commercial kelp by hand with limits on monthly take.
Point Lobos State Marine Reserve	No take. Note: Current rules at Point Lobos Reserve (State Park Unit) limiting diver access do not apply to new areas in this MPA.
Point Lobos State Marine Conservation Area	Allows take of: Recreational and commercial salmon, albacore, and commercial spot prawn
Point Sur State Marine Reserve	No take
Point Sur State Marine Conservation Area	Allows recreational and commercial take of: Salmon, Albacore
Big Creek State Marine Reserve	No take
Big Creek State Marine Conservation Area	Allows take of: recreational and commercial salmon, albacore, and commercial spot prawn
Piedras Blancas State Marine Reserve	No take
Piedras Blancas State Marine Conservation Area	Allows recreational and commercial take of: Salmon, Albacore
Cambria State Marine Conservation Area	Allows all recreational take
White Rock (Cambria) State Marine Conservation Area	Allows commercial take of kelp with limits on monthly take
Morro Bay State Marine Recreational Management Area	No-Take south of latitude 35° 19.70' N, In other areas, allows take of Recreational finfish and Commercial baitfish receiving, Commercial aquaculture by permit. Waterfowl hunting allowed in entire area under Commission Regs.
Morro Bay State Marine Reserve	No take
Point Buchon State Marine Reserve	No take
Point Buchon State Marine Conservation Area	Allows recreational and commercial take of: Salmon, Albacore
Vandenberg State Marine Reserve	No take

VI. Summary of Primary Considerations Raised in Opposition and in Support:

A total of 8,379 comments were received regarding the proposed regulations. Comments in support of the Commission's preferred alternative totaled 4,498 (approximately half of which supported the August 2006 version). Of these, 4,327 were electronic form letters in support of the Commission's preferred alternative (again approximately half supported the August 2006 version), 176 commenters supported alternative 2 (143 of those were electronic form letters and 20 were postcards), 4 letters were submitted to Senator Maldonado expressing concern over a fishery study published in 2006 (see form letter H) and 2,585 signatures were gained on a petition to stop excessive regulation of fishermen (see form letter K). Of the total 8,379 comments received, 3,803 are included subsequent to the Pre-adoption Statement of Reasons. Table 2 provides a breakdown of the number of comments received that are included in the Pre-adoption Statement of Reasons and those received since the Pre-adoption Statement of Reasons and included in this Final Statement of Reasons. Responses to previous public comments received were included in the Pre-adoption Statement of Reasons (see attached Tables 12 and 13).

Table 2. Number of comments received and included in Pre-adoption Statement of Reasons and number of comments received since Pre-adoption Statement of Reasons.

Type	Included in Pre-adopt	Since Pre-adopt	Total
Non-form letter comments	256	172	428
Form letter A	1,983	0	1,983
Form letter B	1,187	224	1,411
Form letter C	933	0	933
Form letter D	108	24	132
Form letter E	5	0	5
Form letter F	6	0	6
Form letter G	0	20	20
Form letter H	0	4	4
Form letter I	0	852	852
Form letter J	0	20	20
Form letter K	98 signatures	2,487 signatures	2,585 signatures
Total	4,576	3,803	8,379

Table 3 lists the name(s), date, and the type of comment (written or oral) for each comment received subsequent to the Pre-adoption Statement of Reasons that was not a form letter. Table 5 summarizes the comments and responses, including individual portions of comments requiring multiple responses. In cases where comments were substantively the same, multiple commenter names are listed for a single comment. Tables 6 and 7 list the numbers of form letter comments received by date. Following Tables 6 and 7 are examples of each form letter.

Table 3. List of commenter names and assigned numbers.

Commenter	Date	Type	First Name	Last Name
238	12/6/2006	written	Daniel	Gotshall
239	3/14/2007	written	Doug	Van Mullen
240	3/13/2007	written	Marilyn	Walker
241a-b	3/13/2007	written	Bud	James
242a-b	2/28/2007	written	Mike	Zamboni
243	3/7/2007	written	Basey	Klopp
244	3/5/2007	written	Clay	Chisum
245a-d	3/15/2007	oral	Jack	Compton
246a-b	3/18/2007	written	Mark	Nicks
247	3/19/2007	written	Christopher	Sherlock
248	3/20/2007	written	Frank	Degnan
249	3/20/2007	written	Bud	James
250	3/20/2007	written	Marilyn	Walker
251	1/22/07 and 3/21/2007	written	Jan	Charvat
252	3/9/2007	written	Ronald	Cortopassi
253	3/12/2007	written	Ronnel	Estrada
254	3/12/2007	written	Paul	Kim
255	3/17/2007	written	Ron	Massengill
256	3/29/2007	written	Rich	Holland
257	3/26/2007	written	Jon	Barnett
258a-c	3/31/2007	written	Marilyn	Walker
259	3/24/2007	written	Joanne	Palmieri
260	3/26/2007	written	Tuvya and Natasha	Bergson-Michelson
261	1/15/2007	written	Bob	Franko
262a-d	3/25/2007	written	Richard	Loyd
263	3/27/2007	written	Tim	Maricich
264	3/21/2007	written	Jon	Wood
265a-d	3/16/2007	written	Scott	Wilcox
266	3/21/2007	written	NRDC	Leadership Council
267	4/6/2007	written	Patrick	Lovejoy
268	3/19/2007	written	Paul	Morgan
269	3/9/2007	written	Denise	Lytle
270	4/2/2007	written	Alfred	Vieira
271	4/2/2007	written	Jim and Lee	Willoughby
272	4/2/2007	written	Sean	Baribeau
273	4/2/2007	written	Diane & Gene	Cecchini
274	4/3/2007	written	Alan	Throop
275	4/3/2007	written	Alan	Throop
276	4/3/2007	written	Alan	Throop
277	4/4/2007	written	John	Wolfe
278a-l	3/30/2007	written	Samantha Murray, Kate Wing, Dan Jacobsen, Steve Shimek	
279a-c	4/9/2007	written	Mary	Masters
280	4/5/2007	written	Betty	Furuta

Commenter	Date	Type	First Name	Last Name
281	3/30/2007	written	Ken	Richardson
282a-b	4/4/2007	written	L. R.	Hering
283	4/7/2007	written	Anna	Mitros
284	4/8/2007	written	Don	Canestro
285a-d	4/9/2007	written	Greg	Glenn
286a-f	4/5/2007	written	Julie	Thayer
287a-b	4/9/2007	written	Raymond	Chiu
288	4/10/2007	written	John	Crowe
289	4/10/2007	written	John	Wolfe
290a-c	4/10/2007	written	Roger	Manley
291a-c	4/10/2007	written	Steve & Sona	Dennis
292a-b	4/8/2007	written	Jennifer	Shulzitski
293	4/6/2007	written	Anne	Maurice
294	4/6/2007	written	Jim Colangelo on behalf of James Costello	
295	3/28/2007	written		Jones
296a-c	4/5/2007	written	Nancy	Barnett
297a-b	4/10/2007	written	B.J.	Griffin
298a-d	4/8/07 & 4/9/2007	written	Dennis	Mayo
299a-c	3/19/2007	written	Melvin	de la Motte Jr.
300	1/29/2007	written	Mika	Yoshida
301a-b	3/2/2007	written	Kenyon	Hensel
306	4/13/2007	oral	Fred	Keeley
307	4/13/2007	oral	Tom	Raftican
308	4/13/2007	oral	Douglas	Bush
309	4/13/2007	oral/written	Karen	Garrison
310a-b	4/13/2007	oral	Bob	Wilson
311a-b	4/13/2007	oral	Lee	Willoughby
312	4/13/2007	oral	Jim	Webb
313a-b	4/13/2007	oral	Mary	Webb
314	4/13/2007	oral	Ben	Sleeter
315	4/13/2007	oral	Chuck	Tribolet
316	4/13/2007	oral	T.J.	Faircloth
317	4/13/2007	oral/written	Greg	Glenn
318	4/13/2007	oral/written	Carl	Moore
319	4/13/2007	oral	Robert	Scoles
320a-b	4/13/2007 4/11/2007	oral/written	Pat	Grant
321a-d	4/13/2007	oral	Don	Canestro
322	4/13/2007	oral	Ozan	Lish
323a-b	4/13/2007	oral	Steve	Scheiblaue
324a-b	4/13/2007	oral/written	Berkley	White
325	4/13/2007	oral	John	Whitacre
326	4/13/2007	oral	Fred	Smith
327	4/13/2007	oral	Mike	Zamboni
328	4/13/2007	oral/written	Dave	Edlund

Commenter	Date	Type	First Name	Last Name
	3/9/2009			
329	4/13/2007	oral	Matt	Plut
330	4/13/2007	oral	Steve	Dillon
331	4/13/2007	oral	Rich	Navarro
332	4/13/2007	oral	Ned	McIver
333	4/13/2007	oral	Bob	Humphrey
334	4/13/2007	oral	Paul	Kaman
335	4/13/2007	oral	Dian	Hardy
336a-d	4/13/2007	oral	Dennis	Mayo
337	4/13/2007	oral	Jim	Martin
338	4/13/2007	oral	Ann	Maurice
339a-b	4/13/2007	oral/written	Kenyon	Hensel
340	4/13/2007	oral	Fred	Cochran
341	4/13/2007	oral	Dale	Myer
342a-c	4/13/2007	oral	Dave	Schaub
343	4/13/2007	oral	Eric	Kjaer
344	4/13/2007	oral	Gene	Kramer
345a-e	4/13/2007	oral	Steve	Shimek
346a-c	4/13/2007	oral	Gordon	Hensley
347a-c	4/13/2007	oral	Bill	James
348a-b	4/13/2007	oral	Tom	Hafer
349	4/13/2007	oral	Michelle	Hohensee
350a-c	4/13/2007	oral	Tim	Eichenberg
351	4/13/2007	oral	Carolyn	Segalini
352	4/13/2007	oral	Sharon	Smith
353	4/13/2007	oral	Pauli	Ojea
354	4/13/2007	oral/written	Emily	Utter
355a-b	4/13/2007	oral	Tim	Maricich
356a-c	4/13/2007	oral/written	Kathy	Fosmark
357	4/13/2007	oral/written	Emily	Hopkins
358a-c	4/13/2007	oral/written	John	Wolfe
359a-b	4/13/2007	oral	Marc	Shargel
360	4/13/2007	oral	Laura	Kasa
361	4/13/2007	oral	Gordon	Bennett
362a-c	4/13/2007	oral	Vern	Goehring
363a-c	4/13/2007	oral	Warner	Chabot
364a-b	4/13/2007	oral	Paul	Weakland
365a-e	4/13/2007	oral	Kaitlin	Gaffney
366	4/13/2007	oral	Randal	Friedman
367	4/13/2007	oral	Aimee	David
368	4/13/2007	oral	Sarah	Corbin
369	4/13/2007	oral	Steve	Fosmark
370a-b	4/13/2007	oral	Tom	Krebs
371a-e	4/13/2007	oral/written	Jesus	Ruiz
372	4/13/2007	oral	Chris	Harrold

Commenter	Date	Type	First Name	Last Name
373	4/13/2007	oral	Art	Seavey
374a-c	4/4/2007	written	Bob	Hather
375	3/21/2007	written	Kia	Conn
376	3/21/2007	written	Rustin	Crandall
377	2/2/2007	written	Paula	Butler
378	4/6/2007	written	Karen	Grimmer
379a-d	12/8/2006	written	Chris	Hoeflinger
380a-b	12/8/2006	written	Tom	Hafer
381	2/2/2007	written	Ben	Sleeter
382	3/2/2007	written	Ed	Salsedo
383	4/13/2007	oral/written	James P. Walsh - Counsel for the California Fisheries Coalition	
384	2/2/2007	written	Carol	Maehr
385	2/2/2007	written	Katherine	Parker
387	3/11/2007	written	Mark	Borden
388a-b	3/10/2007	written	Carol	Rose
389	3/21/2007	written	Kenneth, Jeffery and Christine	Love
390	1/25/2007	written	Jeff	Ishikawa
391	2/2/2007	written	Anje	Van der Naald
392	10/20/2006	written	Christopher	Lomax
393	2/5/2007	written	Terri	Johnson
394	1/30/2007	written	Margery	Meisels
395	1/30/2007	written	Marcia	Harvey
396	1/30/2007	written	Amy	Conway
397	1/30/2007	written	Gail	Macmillan
398	1/30/2007	written	Cynthia	Edgerly
399	1/29/2007	written	Deniz	Bolbol
400	1/29/2007	written	Liz	Turner
401	1/29/2007	written	Sharon	Engel
402	1/29/2007	written	Donna	Davis
403	1/29/2007	written	George	Repchinski
404	1/29/2007	written	Geoffery	White
405	1/29/2007	written	Chris	Lucke
406	1/29/2007	written	Doug	Rotermund
407	1/29/2007	written	Amber	Guidara
408	1/29/2007	written	Florence	Korubs
409	1/29/2007	written	Teressa	Sullivan
410	1/29/2007	written	Joshua	Higley
411	1/29/2007	written	Mary	Moose
412	1/29/2007	written	Caroline	Hennig
413	1/29/2007	written	Mark	Maupin
414	various dates	written	Tom	Hafer

Common abbreviations used in responses to comments: Blue Ribbon Task Force (BRTF); Environmental Impact Report (EIR); Marine Life Protection Act (MLPA); Marine Protected Area (MPA); Memorandum of Understanding (MOU); Regional Stakeholder Group (RSG); Science Advisory Team (SAT); State Marine Conservation Area (SMCA); State Marine Reserve (SMR); Statewide Interest Group (SIG).

MASTER RESPONSES TO GENERAL COMMENT THEMES

The following master responses present detailed responses to several major recurring themes that have been noted in comments received throughout this process. Unless otherwise noted, all code sections cited are to the California Fish and Game Code.

1. Improper Implementation of the Marine Life Protection Act

An overarching theme of some comments is that the MLPA (Statutes of 1999, chapter 1015), process in general, and the Central Coast project in particular, either exceeds the scope of the statute, or otherwise impermissibly deviates from its requirements, particularly with its use of the SMR designation. Although these comments constitute unsubstantiated narrative or opinion, a discussion here is useful to understand the context within which the other themes are addressed.

At the outset, the MLPA is an environmental statute and remedial in nature; remedial statutes are liberally construed so as to effectuate their object and purpose, and the remedial effect of provisions should not be impaired by construction [3 Sutherland Statutory Construction (6th ed.), Section 60:2, p. 199]. This construction of Fish and Game laws has been supported in published cases; conversely, statutory interpretations of Fish and Game statutes will be rejected when they lead to absurd results in light of the clear policy statement of legislative purpose [In re Makings (1927) 200 Cal. 474, 478-479; Pennisi v. Department of Fish & Game (1979) 97 Cal.App.3d 268, 272-273; Young v. Department of Fish & Game (1981) 124 Cal.App.3d 257, 271; Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist. (1992) 8 Cal.App.4th 1554, 1563].

In enacting the MLPA, the Legislature stated why it was necessary to modify the existing array of MPAs to ensure that they are designed and managed “to take full advantage of the multiple benefits that can be derived from the establishment of marine life reserves [now classified as state marine reserves]” [subsection 2851(h)]. The MLPA also directs the MLPA Program to have an “improved” SMR component, and contemplates that the process for the establishment, modification, or abolishment of existing MPAs includes the creation of new MPAs [subsections 2853(b)(6), 2853(c)(5), 2855(a), 2857(c)]. The agenda driving this process is the one expressed by the Legislature in its detailed articulation of MLPA through its findings and declarations, definitions, goals and elements, Master Plan components, and objectives and guidelines [sections 2851-2853, 2856, 2867]. Since the Legislature does not engage in idle acts, the fact that it expressly authorized the Commission in Section 2860 to regulate commercial and recreational fishing and any other taking of

marine species in MPAs, and not just SMRs, presumes such authority can be exercised.

Of course, how the Commission exercises that authority is a matter solely within its purview. Regardless, the authorization of new SMRs cannot be reasonably construed as reflecting a bias against fishing, when the MLPA expressly states that such reserves “may help rebuild depleted fisheries” [subsection 2851(f)]. Further, the Marine Life Management Act (MLMA, Stats. 1998, ch. 1052) links the maintenance, restoration, and enhancement of marine habitat to the primary fishery management goal of sustainability. In that respect, the Legislature also emphasizes that even fishery management decisions – which include the prevention of overfishing, the rebuilding of depressed stocks, the facilitation of conservation and long-term protection, and the restoration of marine fishery habitats – must not sacrifice long-term goals for short-term benefits [subsections 7055(a), 7055(b), 7056(a), 7056(i)].

2. Inadequacy of Science Standard

Another recurring theme questions the adequacy of the science driving the MLPA process, asserting that the science being used is not the “Best Available Scientific Information” (BASI) and recommending that the process not continue until more research and study is conducted. However, state law emphasizes timeliness over quality. In 2004 the National Academy of Sciences sponsored a major discussion of BASI in the context of the Magnuson-Stevens Fishery Management Act, and noted that “best” explicitly suggests that there is no better scientific information available and implicitly suggests the use of the most relevant and contemporary data and methods. However, the MLPA process is expressly based “on sound scientific guidelines” and “the best readily available science” [subsections 2853(b)(5), 2855(a)]. The MLPA use of best *readily available* science is an important qualification that emphasizes timeliness over quality. Similarly, the MLMA, which predates the MLPA, qualifies its application of BASI with the language: “...on other relevant information that the department possesses, or on the scientific information or other relevant information that can be obtained *without substantially delaying the preparation of the plan*” [Emphasis added, subsection 7072(b)].

The MLPA emphasis of timeliness over quality of information is further underscored by the concept of adaptive management, which recognizes that this process proceeds in the face of “scientific uncertainty” and prospectively contemplates that “monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood” [Section 2852]. The objective of adaptive management under the MLPA is not to reduce uncertainty through increased scientific rigor, but rather to produce practical information that guides management decisions. To date, the California experience with adaptive management of marine resources is exemplified through the MLMA [sections 90.1, 7056(g)] and the Nearshore Fishery Management Plan, which address the critical concepts of the precautionary principle, and the variability of adaptive management strategies in data poor, data moderate, and data rich circumstances.

That the Legislature, as a matter of public policy, has favored timeliness over quality of information does not mean that inadequate science should be used. In that respect, external peer review is a strong guarantor of the adequacy of the science. The MLPA mandates that an external peer review process be established, and allows use of the process identified in Section 7062 of the MLMA “to the extent practicable” [Section 2858]. Subsection 7062(a) allows for submission to peer review of documents “that include, but are not limited to [marine living resources management documents].” However, such submissions are discretionary.

Also, it is important to understand that the charge of the peer review entity is not to authenticate the data presented to them, but to evaluate the scientific methodology employed and the facial plausibility of the conclusions that can be drawn therefrom. More importantly, the peer review entity is not expected to approve, disapprove, or comment on the wisdom of those conclusions. This must be so, because reasonable people can in good faith arrive at different conclusions using the same data and methodology.

In that regard, the Department undertook such a peer review of the scientific basis for the Master Plan. Consistent with the statutory direction of Section 7062, the scientific design guidelines used in preparing alternative MPA recommendations were reviewed by a panel convened by Oregon Sea Grant. The reviewers were selected by Sea Grant independent of the Department, and asked to review: (1) the MLPA Master Plan Science Advisory Team (SAT) guidance on MPA network design; and (2) the consideration of habitats in the design of MPAs provided by the SAT. The reviewers were also asked: (1) in general, is the document logically organized and factual? (2) are its recommendations clearly and unambiguously stated? (3) are there specific statements that you feel are incorrect or misleading? and (4) is there anything of importance that was not stated or covered? The three reviewers found the document and advice appropriate and not lacking in any way.

Additionally, the scientific review and analysis of alternative MPA recommendations were similarly reviewed. An independent panel convened by California Sea Grant reviewed the documents prepared by the SAT in analysis of various alternatives. Again, the reviewers found the documents, recommendations, and methodologies scientifically sound and concurrent with available information.

3. Inadequacy of Socioeconomic Analyses

A variant of the theme in Master Response 2 is that the socioeconomic information is fatally deficient. However, nothing in the MLPA imposes an affirmative duty to generate socioeconomic data beyond that which is required by other applicable laws, such as the Administrative Procedure Act or -- to the extent a socioeconomic change induces significant adverse environmental impacts -- the California Environmental Quality Act. The MLPA authorizes the establishment of a Master Plan team of scientists, one of which “may” have expertise in socioeconomics [subsection 2855(b)(3)(A)].

The preferred siting alternative must incorporate information and views provided by people who live in the area and other interested parties, including economic information [subsection 2857(a)]. Here, the term “economic information” relates back to “information” so we reasonably interpret this to mean that it is the “people who live in the area and other interested parties” that provide the economic information. Conversely, neither the five MLPA Program elements in subsection 2853(c), nor the eleven Master Plan components in subsection 2856(a)(2), address socioeconomics. Socioeconomics, then, is only one factor to consider in the development of a siting alternative [subsections 2855(c)(2), 2857(a)], which still must be consistent with the ecosystem-based goals and elements (Section 2853) and sound scientific guidelines [subsection 2857(c)] of the MLPA. Consistent with CEQA Guidelines [14 C.C.R. subsection 15131(a)], there is no duty to mitigate for adverse socioeconomic impacts under the MLPA. The MLPA expressly addresses mitigation of adverse impacts “on marine life and habitat in MPAs,” and if the Legislature had intended that socioeconomic impacts also be mitigated, it plainly would have said so (Section 2862). However, detailed socioeconomic information generated during the siting process may be relevant in the subsequent implementation of regulations under the Administrative Procedure Act (Government Code Section 11346.3).

4. Failure to Consider Existing Marine Protected Areas

There is no authority for the proposition that the MLPA requires holistic understanding of the resource contributions of existing MPAs before new ones may be considered. Indeed, such a conclusion is precluded by a plain reading of the statute. The MLPA only contemplates “an analysis of the state's current MPAs, based on the preferred siting alternative, and recommendations as to whether any specific MPAs should be consolidated, expanded, abolished, reclassified, or managed differently so that, taken as a group, the MPAs best achieve the goals of Section 2853 and conform to the guidelines in subdivision (c) of Section 2857” [subsection 2856(a)(2)(F)]. This indicates that the assessment of existing MPAs is driven by the configuration of the preferred siting alternative, not the reverse. That assessment of existing MPAs is intended as part of the ongoing process, as opposed to being a necessary precondition to future MPAs, is further indicated in the Master Plan component requiring “recommendations for monitoring, research, and evaluation in selected areas of the preferred alternative, including existing and long established MPAs, to assist in adaptive management of the MPA network” [subsection 2856(a)(2)(H)]. Also, the MLPA requires that the Fish and Game Commission “promptly act” on petitions to “add MPAs” and states that “nothing in this chapter” restricts any existing authority to designate new MPAs prior to the completion of the Master Plan [subsections 2861(a), (c)]. If a comprehensive assessment of the resource contributions of existing MPAs was required before new MPAs could be created, then these provisions would be rendered a nullity.

5. Failure to Consider Existing Fishing Management Measures

Several commenters asserted that MPAs were unnecessary because existing fishery conservation and management were capable of performing the same function, with less impact to commercial and recreational fishing interests. A variant

of this theme asked why MPAs were necessary when particular fish stocks were either healthy, or rebuilding on their own.

The MLPA expressly states that MPAs and fisheries management are complementary [subsection 2851(d)]. Similarly, the MLMA declares that conservation and management programs prevent overfishing, rebuild depressed stocks, ensure conservation, facilitate long term protection and, where feasible, restore marine fishery habitats [subsection 7055(b); see also subsections 7056(b), (c)]. Although MPAs and fisheries management are complementary, they are not equivalent. The purpose of habitat protection in the MLMA is to advance the “primary fishery management goal” of sustainability (Section 7056). Moreover, that which is being managed is a specific fishery -- which may be based on geographical, scientific, technical, recreational and economic characteristics (Section 94) -- and so may only provide limited protection of a particular habitat.

Conversely, although the MLPA considers managing fishery habitat [subsections 2851(c), (d)], it also encompasses broader, ecosystem-based objectives that are not limited to *only* managing fisheries. If only existing fishery conservation and management measures were considered in designing the MLPA networks, then arguably only some of the ecosystem goals and objectives might be met. Other goals and elements would be undervalued (e.g. improving “recreational, educational and study opportunities provided by marine ecosystems” and protecting “marine natural heritage...for their intrinsic value” [subsection 2853(b)]). The MLPA also states that one of the purposes of the marine reserve component is to generate baseline data that allows the quantification of the efficacy of fishery management practices outside the reserve [subsections 2851(e), (f)]. This would be difficult to implement if the MPA design itself must consider those very same existing conservation and management measures.

Moreover, it is important to remember that the MLMA is the most comprehensive revision of state marine fishery management procedures in history. The subsequent enactment of the MLPA the following year strongly suggests the Legislature recognized that fishery conservation and management measures alone were inadequate to the task of broad ecosystem protection. Finally, had the Legislature intended existing fishery conservation and management measures to be considered in designing MPAs, then it plainly would have said so, as it did in the MLMA (Section 7083). As it is, the fact that the MLPA allows the Commission to “regulate commercial and recreational fishing and any other taking of marine species in MPAs” [subsection 2860(a)] strongly suggests that fishery measures are not intended to be considered in the design of MPAs but may in fact be subject to limitations beyond those already existing under fishery management regimes. In particular, the Nearshore Fisheries Management Plan (NFMP) developed pursuant to MLMA is specifically designed to adapt management in the presence of MPAs. Similarly, other fishery management changes, if necessary, would occur after the implementation of MPAs through the MLMA process. Thus, while the design of fishery management measures should properly consider the existence of MPAs, the reverse is not true.

The conclusion that existing fishery management measures are not properly considered in designing MPAs is further bolstered by three “real world” considerations. First, the direction from the Legislature is to use “the best readily available information” and studying the interaction of existing fishery management practices would add another dimension of complexity that retards, not facilitates, the process (See Master Response 1). Second, the subject of interaction with existing fishery management processes reflects exactly the kind of “scientific uncertainty” acknowledged by the Legislature when it authorized the application of adaptive management to the MLPA process (See Master Response 2). Third, the unfortunate reality is that existing fishery management processes do not always work. Indeed, as evidenced by the disastrous collapse of the west coast groundfish and the red abalone fisheries, they can fail entirely. Fishery conservation and management measures alone do not necessarily guarantee either fishery sustainability or ecosystem health.

6. Improper funding of MLPA process.

It is well-settled that, generally, public funds cannot be used for private purposes (see California Constitution article 16, section 6). However, several commenters have argued that the reverse is also true, and that the use of private funds for public purposes is equally repugnant to the constitution and other laws. Related arguments assert that the Legislature did not approve of the public/private partnership that created the MLPA Initiative, and that public agency decision-makers have been unduly influenced by such private funding.

Assembly Bill 993 (1999) enacted the MLPA to mandate the adoption by the Fish and Game Commission of a Master Plan guiding implementation of the Marine Life Protection Program,¹ concerning the creation of MPA networks off the California coast. The MLPA specifies the Master Plan components, including recommendations for funding sources to ensure all MPA management activities are carried out and the Marine Life Protection Program is implemented.²

In signing AB 993 into law, Governor Davis stated he was encouraging the proponents and the Department of Fish and Game “to seek assistance from private resources to help implement the provisions of the bill.” The following year, AB 2800 (Stats.2000, Chapter 385) enacted the Marine Managed Areas Improvement Act (MMAIA), to require a standardized classification system for marine managed areas. The MMAIA expressly recognizes the need to coordinate efforts to identify opportunities for public/private partnerships,³ and is intended to work in coordination with the MLPA⁴. The MLPA, in turn, requires that the Master Plan be prepared with the advice, assistance, and involvement of [fisheries] participants, marine

¹Fish & Game Code §§ 2853(b) 2855(a).

²Fish & Game Code § 2856(a)(2)(K).

³Public Resources Code § 36601(a).

⁴ Fish & Game Code §§1591, 2854; Public Resources Code §§ 36750(a), 36900(b), 36900(e); See also Assembly Committee on Water, Parks, and Wildlife, Analysis of AB 2800 (1999-2000 Regular Session) April. 25, 2000; Senate Rules Committee, 3d reading analysis of AB 2800.

conservationists, marine scientists, and other interested persons, and allows the Department to engage other experts to contribute to the Master Plan⁵.

In January 2004, the Department announced that budget shortfalls necessitated postponing its efforts under the MLPA. The current MLPA effort began with a 2004 public/private partnership created between the Resources Agency, the Department, and the Resources Legacy Fund Foundation, through a Memorandum of Understanding (MOU). The MOU recognized the prudence of preparing the Master Plan in phases. Consistent with its role in the MMAIA and the California Ocean Protection Act, the Agency agreed to establish the BRTF to oversee and coordinate the preparation of a Master Plan Framework. The Department agreed to expand the Master Plan Team to include more scientists, and to charge it with advising and assisting the BRTF and its staff in the preparation of the draft Master Plan Framework, and alternative networks along the central California coast. The Foundation agreed to fund staff and consultants for the BRTF, the expenses of the BRTF and the SAT, and costs for five Department positions which would be redirected to the MLPA effort⁶.

The effort has had the full knowledge and support of the Legislature. The anticipated use of private matching funds for MLPA implementation was acknowledged in the agendas of both the Assembly Budget Subcommittee No. 3 (April 21, 2004) and the Senate Budget and Fiscal Review Subcommittee No. 2 (May 19, 2004). In appropriating \$500,000 (Item 3600-001-0647), the Budget Bill (SB 1113; Stats.2004, Chapter 208) provided that the funds shall be available to match private funds for expenditure for MLPA-related activities. The Budget Bill was signed by the Governor on July 31, 2004. On August 27, 2004, the three entities executed a MOU that laid the groundwork for the MLPA Initiative's public/private partnership.

In 2005, the Governor's budget proposed \$500,000 from the Environmental License Plate Fund to continue MLPA implementation. The agendas for both the Assembly Budget Subcommittee No. 3 (April 13, 2005) and the Senate Budget and Fiscal Review Subcommittee No. 2 (May 18, 2005) note the funding "is leveraging over \$2 million in private foundation expenditures." In February, the Legislative Analyst's Office recommended that the Legislature hold the issue open pending receipt and review of the draft Master Plan Framework from the BRTF.⁷ After the draft Framework was transmitted to the Fish and Game Commission on May 13, 2005, the Senate Subcommittee staff recommended approving the proposal as budgeted. Consistent with the subcommittee actions, the Budget Bill (SB 77, Stats.2005, Chapter 38) appropriated \$15,802,000 (Item 3600-001-0005), of which \$500,000 was allocated through a Budget Change Proposal to the Marine Region for MLPA Design Management (PCA A1020) totaling \$416,667.

⁵Fish & Game Code § 2855(b)(4), (b)(5).

⁶ This agreement was effectuated through a separate reimbursement contract that was reviewed and approved by the Department of General Services. The employees themselves continue to be paid out of the Fish and Game Preservation Fund, through monies appropriated by the Legislature through the annual budget process.

⁷Analysis of the 2005-06 Budget Bill (LAO: February 2005), pp. B-63 to B-65.

In November 2005, the Coastside Fishing Club, whose members are recreational anglers, sued, claiming that the Agency and Department were not authorized to seek private funding, that the MOU violated Article 16, section 7 of the California Constitution (relating to State Controller's warrants) and the separation of powers doctrine, and that the MOU amounts to a gift in violation of Government Code § 11005. In September 2006, the trial court found that the MOU was authorized by the MLPA, did not violate either Article 16, section 7 or the separation of powers doctrine, that, further, the Legislature specifically authorized that the appropriate funds would be used to match private funds, and the resources provided under the MOU did not amount to a gift but rather that the MOU was a bilateral contract with consideration on both sides⁸.

The Governor's January 10, 2006 budget again proposed \$500,000 from the Environmental License Plate Fund to continue MLPA implementation⁹. A March 30, 2006 Finance Letter included an additional \$380,000 from the General Fund to fund existing Department positions that were supported by a reimbursement contract with the Resources Legacy Fund Foundation, which expired December 31, 2006¹⁰. On April 24, 2006, Senate Subcommittee No. 2 staff recommended that it hold the issue open and request the Department to provide additional information. The Governor's May Revision proposed \$2.6 million from the General Fund to the Ocean Protection Council for MLPA implementation, together with an equivalent amount of reimbursement authority to the Department. On May 17, 2006, staff for the Senate Budget and Fiscal Review Subcommittee No. 2 recommended that it approve all MLPA proposals as budgeted. Consistent with the subcommittee actions, the Budget Bill (AB 1801, Stats.2006, Chapter 47) appropriated "at least" \$ 3.47 million for MLPA implementation (Item 3600-001-0001, paragraph 8).

In anticipation of the expiration of the initial MOU at year's end, the parties entered into another MOU regarding the second phase of the MLPA Initiative in December 2006. The Foundation expressly agreed that its funding and services were not contingent on the content of the Task Force's recommendations or on the MPA alternatives ultimately selected by the Commission. At this writing, the budget process for Fiscal Year 2007-2008 is currently ongoing.

7. Inadequate opportunity for public participation.

Several commenters have complained that they did not have adequate opportunities to review and comment on the proposed project. A variant of this theme is that open meeting laws have been violated.

⁸Coastside Fishing Club v. California Resources Agency, California Department of Fish and Game, and the Resources Legacy Fund Foundation (Super. Ct. San Francisco, 2006, No. CGC-06-453400), order granting motion for judgment on the pleadings and sustaining demurrer without leave to amend filed September 06, 2006.)

⁹"Environmental License Plate Fund (ELPF)," Presentation to Assembly Budget Subcommittee No. 3 (LAO: May 23, 2006), p. 2.

¹⁰Senate Budget and Fiscal Review Subcommittee No. 2 Agenda (April 24, 2006), p. 15. The reimbursement contract was reviewed and approved by the Department of General Service.

Such comments are speculative, and offer no supporting facts as to what alleged violations may have occurred, or when. In fact, the BRTF was not created in statute but rather pursuant to the authority of the Resources Agency Secretary, and so does not constitute a “state body” for purposes of compliance with Bagley-Keene¹¹.

The MLPA itself encourages public participation and involvement¹². The MOU (August 2004) establishing the MLPA Initiative commits to such public transparency, and the BRTF created pursuant to the MOU values this commitment so highly it adopted its own policy on the subject (October 2004). The SAT Charter (October 2004) expressly commits to regular open meetings. To further facilitate public participation in this process, the BRTF created a “Statewide Interest Group” (SIG) in December 2004. Both the SIG and the RSG provided additional forum for public participation and comment as products were developed and forwarded to the BRTF. The MLPA Initiative maintains a dedicated website where meeting notices, agendas, and meeting materials are posted.

The MLPA Initiative website identifies the eleven members of the SAT who, based on their qualifications¹³, constitute the Master Plan Team as distinguished from those individuals who were specifically retained for the Central California project. These additional members are neither appointed pursuant to statute nor are they appointed by another multimember body (i.e. the Master Plan Team)¹⁴. The SAT met 15 times. A review of attendance shows that six meetings did not have a majority of these persons present and so did not constitute a “meeting”¹⁵ for purposes of Bagley-Keene: July 2005, August 30, 2005, October 2005, November 2005, May 2006, and September 2006.

Irrespective of any uncertainty over whether a “team” is sufficiently analogous to a “state body” to bring the Master Plan Team within the ambit of Bagley-Keene, the SAT fulfilled an intermediate function, acquiring and synthesizing scientific information for subsequent consideration and use by the BRTF, the Department, and finally the Commission. Indeed, by design, the MLPA Initiative scheduled the meetings of the SAT, BRTF, SIG, and RSG to maximize opportunities for review and comment on the products and processes as they developed, and the Commission held multiple public hearings after the SAT completed their work (Table 4):

Table 4. List of public meetings held during preparation and consideration of the proposed regulations.

	SAT	BRTF	RSG	SIG	FGC
APR 07					04/13/07
MAR 07					03/02/07
FEB 07					02/02/07
JAN 07					
DEC 06					12/14/06

¹¹Government Code § 12851.

¹²Fish & Game Code § 2853(c)(5).

¹³Fish & Game Code § 2855(b).

¹⁴See generally, Fish & Game Code 2855(b).

¹⁵Government Code § 11122.5(a).

NOV 06	11/09/06	11/20/06			
OCT 06					
SEP 06	09/25/06	09/06/06		09/21/06	
AUG 06					08/02, 15
JUL 06					
JUN 06				06/07/06	06/22/06
MAY 06	05/01/06	05/25/06			
APR 06					
MAR 06	03/02/06	03/14/06		03/24/06	
FEB 06				02/17/06	
JAN 06	01/20/06	01/31/06			
DEC 05			12/06/05	12/15/05	
NOV 05	11/15/05	11/29/05	11/09/05		
OCT 05	10/18/05		10/05/05	10/07/05	
SEP 05	09/19/05	09/28/05	09/07/05		
AUG 05	08/02, 30		08/10/05		8/4, 9, 16
JUL 05	07/06/05	07/11/05	07/07/05	07/20/05	07/12, 19
JUN 05			06/08/05	06/03/05	
MAY 05	05/11/05	05/23/05			
APR 05		04/11/05		04/21/05	
MAR 05	03/25/05			03/04/05	
FEB 05	02/11/05	02/22/05			
JAN 05	01/07/05	01/10/05		01/27/05	
DEC 04				12/16/04	
NOV 04					
OCT 04		10/23/04			

As a result, there is no question that multiple opportunities existed for stakeholders and other interested persons to subsequently provide substantive comments on any subject considered by the SAT at any particular meeting. This aspect is particularly significant when the commenter was not a member of the general public but rather an active participant in either or both of the two stakeholder groups that were formally embedded in the MLPA Initiative process for the express purpose of facilitating and gathering stakeholder input.

Although a person may legally challenge an action taken at a meeting subject to Bagley-Keene within 90 days, nothing prevents a state body from *curing or correcting* an action taken that was allegedly not in compliance¹⁶. Moreover, such an action is not null and void if taken in *substantial compliance* with the Bagley-Keene meeting notice and agenda requirements¹⁷. The one SAT meeting that originally gave rise to this issue – September 2006 – did not have a quorum of MLPA Master Plan Team members and so, for purposes of Bagley-Keene, we believe that no meeting violation could have occurred even if the MLPA Master Plan is indeed a “state body.” The record shows that at least five other SAT meetings similarly lacked a MLPA Master Plan Team quorum. Of the remaining nine SAT meetings, the record shows that the notice and agenda requirements were either substantially complied with, or cured by subsequent action.

¹⁶Government Code § 11130.3(a).

¹⁷Government Code § 11130.3(b).

The following table provides a summary of the comments received and responses. The Commenter number corresponds to the names and dates in Table 3. Comments that do not contain Commenter numbers are included here because they are comments that were included in the Pre-Adoption Statement of Reasons (see Table 13) and several are referenced in responses to other comments.

Table 5. Comment summaries and responses.

Commenter	Comment number	Comment Summary	Response
238, 243, 251, 253, 254, 259, 260, 266, 270, 283, 300, 306, 309, 322, 342a, 344, 350a, 352, 357, 368, 372, 384, 394, 395, 396, 397, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413	1	Supports preferred alternative	Comment noted
278a, 279a, 282a, 286a, 290a, 291a, 316, 321a, 326, 334, 335, 345a, 346a, 349, 351, 353, 360, 361, 363a, 365a, 376, 378, 391	2	Supports original Aug 15 2006 preferred alternative	Comment noted

Commenter	Comment number	Comment Summary	Response
337, 347a, 356c, 369, 379a	3	Supports alternative 1	The Commission considered all alternatives, but adopted the preferred alternative.
240, 267	4	Supports package 2R	The Commission considered all alternatives, but adopted the preferred alternative.
262a, 265a, 318, 347c, 362b, 370b	5	Does not support any alternatives, process scientifically flawed	See Master Response 2.
247, 287a, 375, 393, 398	6	General support for resource conservation	Comment noted.
250, 258c, 296c, 371b	7	Ban fishing contests in MPAs	The BRTF asked the Department to examine spearfishing contests during the development of alternative packages in 2006. It found that proposed restrictions on spearfishing contests were unwarranted. Spearfishers are subject to the same bag and size limits as hook and line anglers. Spearfishing contests generally occur no more than once a year in any given location and are monitored by Department biologists. Most species harvested in these contests over the past several decades have shown no changes in average length, number of fish caught or fishing effort during the contests. These statements apply to general fishing contests as well. In addition, fishing contests often impose their own restrictions which are more stringent than general recreational fishing regulations.
	8	Ban spearfishing in SMCAs	SMCAs are not “no-take” reserves. The goals and objectives of individual SMCAs determine whether spearfishing should be allowed.
256, 323a, 325	9	Supports sub-option 1: recreational fishing allowed at Ed Ricketts at all times.	Comment noted. The Commission selected this sub-option.
358a, 377	10	Do not allow fishing at Ed Ricketts any time due to potential impacts to living resources and/or conflicts between divers and anglers.	Recreational fishing would continue to be allowed from the breakwater, which is a public fishing pier and one of the few wheelchair-accessible points for fishing in the central coast. The outer one-third of the breakwater is already closed to fishing in order to protect a sea lion haulout area, but is accessible from the water to divers. Recreational fishing with hook and line from small boats is a legitimate traditional use that is consistent with the desired level of protection for the area.

Commenter	Comment number	Comment Summary	Response
258a	11	Supports preferred alternative option 2 for Ed Ricketts (fishing is allowed in Ed Ricketts any time except weekend fishing is not allowed at the Monterey breakwater) primarily due to conflicts between divers and anglers.	See response to comment 10. The Department believes that the stated conflict/hazard of divers being hooked by breakwater anglers is not one that should be addressed by the MLPA process as divers and anglers use the area at their own risk. The City of Monterey has also posted signs in the area to warn both divers and anglers of the potential hazard.
241a, 274, 278j, 296a, 315, 359a, 371a	12	Supports preferred alternative option 2a for Ed Ricketts (fishing is allowed at the Monterey breakwater on weekdays only but disabled persons allowed any time)	See response to comments 10 and 11. An option to allow disabled anglers to fish on the Edward Ricketts breakwater at all times may be considered discriminatory against certain user groups from being allowed to fish in the area. Limiting recreational fishing at the breakwater to disabled fishermen only does not eliminate take thus ecological benefits would be negated. Further, the possibility of anglers hooking divers would still exist.
379b	13	Wants compensation for spot prawn fishermen and a reduction of permits to balance the closures.	There is no requirement in state law to mitigate for potential adverse socioeconomic impacts. See Master Response 3.
	14	Open Dungeness crab fishing at Soquel Canyon and Portuguese Ledge; it is a low impact fishery	Concerns over potential impacts to the Dungeness crab fishery were not previously raised during the development of alternatives for this MPA. Data collected during this process estimates that all MPAs in the project would impact less than 7% of all Dungeness crab fishing grounds, and less than 14% of fishing grounds within the study region. The proposed Soquel Canyon and Portuguese Ledge MPAs potentially impacts an estimated 1.3% and 0.5% of Dungeness crab fishing grounds. See response to comment 21.
	15	Advocates elimination of spot prawn fishing due to marine mammal entanglements in gear	The Commission selected sub-options which prohibit spot prawn trapping in Monterey Bay MPAs.
	16	Do not limit non-consumptive activities in MPAs, in particular at the Vandenberg SMR.	Access for non-consumptive activities like surfing, swimming, and non-consumptive diving are generally allowed in MPAs [14 C.C.R. subsection 632(a)(3)]. The pertinent subsection regarding the proposed Vandenberg SMR is subsection 632(b)(55)(B).
	17	Why are regulation changes proposed for areas outside the central coast?	As described in the ISOR, typographical and consistency changes are proposed throughout California. These changes do not change the level of protection or restrictions in any MPA outside the central coast.

Commenter	Comment number	Comment Summary	Response
328, 370a	18	Allow spearfishing or poke pole fishing at Ed Ricketts SMCA and other MPAs	Although there is generally no evidence that spearfishing has a greater impact than other types of take, the proposed regulation prohibits spearfishing within the Ed Ricketts SMCA in order to compare the MPA to an area where spearfishing is allowed (at Pacific Grove). There is no evidence that poke pole fishing has any greater impact than other forms of hook and line fishing and this activity would continue to be allowed in MPAs that allow hook and line take.
245a, 390	19	Provide exemption for shore-based recreational anglers in certain MPAs, specifically Point Buchon and Piedras Blancas	The primary goal of the MLPA is not fisheries management. An exemption for one user group contradicts the goals and/or objectives of the MLPA and individual MPAs. In addition, Point Buchon and Point Piedras Blancas areas are recommended as SMRs and are considered important to the formation of an ecologically sound MPA network due to the high diversity of species and habitats, and due to their location in relation to other MPAs. See Master Responses 1 and 5.
242a, 301a, 339b	20	Alternative will displace fishermen and increase effort either on sensitive species, particularly canary rockfish, or in non-MPA areas	<p>The Department analysis shows that most fishing effort is outside MPAs, suggesting prime fishing grounds lie outside the MPAs. The EIR concluded that a concentration of fishing effort would have a less than significant impact on marine species and habitats.</p> <p>The potential for increased canary rockfish bycatch from displaced fisherman is speculative, and the commenter does not provide any evidence to substantiate this claim. There is no evidence that shows effort shifts will have a negative impact or increase bycatch of canary rockfish. A review of canary rockfish “hotspot” fishing data indicates that most locations for this species are north of and outside the proposed project area. Many of the remaining hotspot locations found inside the project area reside within the boundaries of the proposed MPAs or in areas that already have a high level of fishing pressure.</p> <p>Regarding the Vandenberg SMR: the project boundaries provide for complete protection of a diverse area containing shallow hard and soft habitats, kelp beds, and associated fish and invertebrate, while benefiting from protection provided by an existing state marine reserve and restrictions on vessel traffic, including fishing vessels, due to the presence of Vandenberg Air Force Base. This area is important to an ecologically sound MPA network component, by linking these habitats to similar habitats in other parts of the region. See also Master Response 2.</p>

Commenter	Comment number	Comment Summary	Response
263, 379c	21	The spot prawn fishery is low impact and should be allowed	The spot prawn fishery may be a relatively low-impact fishery, but the goals of MLPA also include representation of key habitats in high protection MPAs. Allowing spot prawn trapping reduces the relative level of protection and in some cases is inconsistent with stated goals for individual MPAs.
	22	The use of scientific names causes confusion	The proposed regulations use both common and scientific names to reduce confusion where necessary. This has only been done for MPAs in the central coast region. Scientific names previously suggested for addition in areas outside the central coast have been removed.
	23	Regulations need to allow transit through and anchoring in MPAs with fish and gear onboard	Existing regulations at 14 C.C.R. subsection 632(a)(8) allow vessels to transit through marine protected areas and marine managed areas with catch onboard. Fishing gear must be stowed and not in use while transiting through a SMR. The proposed regulation does not change this.
262b, 265b	24	The socioeconomic impacts have not been fully considered and economic damage will occur	The economic analysis did not show, nor did the commenter provide, evidence of significant long-term socioeconomic impacts to the central coast region with the implementation of the project. See Master Response 3.
245d, 285a, 311a, 320b, 362a	25	Suggestions or stakeholders were not considered in process	See Master Response 7.
273, 280, 311b	26	Suggests that the MPAs in the Pacific Grove area be increased in size rather than have segments cut out	The area presently allows recreational take of finfish and invertebrates other than mollusks or crustaceans, as well as the commercial take of kelp, squid, and certain finfish. The project increases overall protection throughout the entire Pacific Grove area. Some areas, such as Lovers Point SMR and Asilomar SMR will be no-take reserves while in adjoining SMCAs, only the take of finfish and commercial take of kelp will be allowed. See also Master Response 4.
347b, 380b	27	The areas closed to fishing are prime fishing grounds	This comment is speculative, and offers no evidence quantifying prime habitat or identifying its location. The Department analysis indicated that most fishing effort is outside MPAs, suggesting prime fishing grounds are outside the MPAs.
245c	28	Private donations influenced decisions and the process was inappropriately implemented	The MLPA process did not receive any donations. See Master Response 6.

Commenter	Comment number	Comment Summary	Response
	29	MPAs only address fishing and do not adequately address other environmental issues	See Master Responses 1, 4 and 5. MPAs are an ecosystem-based approach to managing natural diversity and abundance of species. While the primary regulatory change prohibits or limits fishing, their basis lies in protecting habitats and all species, not just those targeted by fishing. The MLPA contemplates the review of existing MPAs and improvement of their function and design. Other environmental issues are addressed by other statutes and agencies responsible for regulating adverse non-fishing impacts upon the ocean resources.
	30	FMPs, MPAs, and other fishery regulations should work together to strengthen fishery management	See Master Response 5.
269, 288, 292a, 295, 319, 385	31	General MPA process support	Comment noted.
278g	32	Tighter restrictions including gear restrictions are necessary at Soquel Canyon and Portuguese Ledge	The project as a whole meets the goals and objectives of the MLPA and scientific guidelines developed during the process. The MLPA contemplates adaptive management and changes in take designations may be made as warranted.
246b, 248, 249, 275, 278i, 296b, 324b, 342b, 345d, 350c, 358b, 359b, 365b, 371d	33	The proposed kelp harvest limits are not restrictive enough	The intent of the proposed regulation is to preserve kelp habitat within Edward Ricketts SMCA while allowing sustainable take for commercial users [See Fish and Game Code subsection 2857(d)]. The proposed harvest limits are conservative enough to prevent overharvest, while providing for kelp-reliant businesses. Presently total take and method of take are not limited, thus the proposed kelp harvest limits are more conservative than existing restrictions. Additionally, while isolated incidents of a high level of harvest have occurred, this resilient kelp bed has not been subject to permanent damage.
278f, 286f, 297b, 310b, 345b	34	Recommends increasing restrictions on take of forage species	Allowing the take of forage fish in Greyhound Rock, Soquel Canyon, and Portuguese Ledge SMCAs would not result in a significant depletion of forage fish. Many pelagic species are less likely to benefit directly from individual MPAs unless their size encompasses the species' range, or their location protects critical life stages (i.e. spawning or feeding aggregations, nursery grounds). However, MPAs do not reduce the ability to catch pelagic species for the same reason they limit benefits - such fish migrate. The proposed regulation does not increase existing levels of take for these species.

Commenter	Comment number	Comment Summary	Response
	35	Doesn't support eliminating the Julia Pfeiffer Burns SMCA, and does not feel Point Sur, Big Creek MPAs are adequate. Opposes removal of the name "Julia Pfeiffer Burns."	The existing Julia Pfeiffer Burns SMCA does not adequately protect some populations of invertebrates and finfish. The MLPA contemplates adaptive management and an improved SMR component, which contemplates evaluation and possible abolishment of some existing MPAs. The Point Sur and Big Creek SMRs strengthen the regional marine reserve component and provide greater protection for all species. See Master Response 1.
355a, 374b	36	The alternatives burden fishermen, limit opportunity, or jeopardize safety	See Master Response 3. Safety is not jeopardized; transit through the proposed MPAs and anchoring with catch onboard is still allowed. The Department economic analysis did not show a significant permanent impact. The Commission adopted regulations which set the northern boundary of the Vandenberg SMR south of Purisima Point to limit the impact to existing uses (e.g. nearshore fisheries) in that vicinity. See also response to comment 4.
313a, 321c, 345e	37	Local fishing interests support the Pico Creek and Lampton Cliffs park boundaries (a merge of the two sub-options)	The SMCA boundaries provide high levels of protection of a diverse area containing shallow hard and soft habitats, kelp beds, pinnacles, and associated fish and invertebrate species adjacent to an existing land based preserve and research facility. The proposed boundaries were developed to both allow existing activities and use easily recognizable and enforceable boundary locations. The SMCA will enhance recreational fishing near a population center (Cambria) by prohibiting commercial take in an area traditionally accessed primarily by recreational users. The SMCA also replicates habitats found in adjacent White Rock (Cambria) SMCA to allow comparison of an area that allows only recreational fishing with an area where all take, except commercial kelp is prohibited.
373	38	Allow kelp harvest in leased and open beds	Kelp harvest guidelines for each MPA are provided for those where commercial kelp harvest is proposed.
246a, 327	39	A specific fishery is healthy why limit take?	See Master Response 5.

Commenter	Comment number	Comment Summary	Response
285b, 317, 380(a)	40	Proposes various boundary changes and/or removal of Cambria MPAs	<p>The MLPA contemplates that MPAs be designed in part to provide for protection of replicate habitats such as, shallow hard and soft habitats, kelp beds, pinnacles, and associated fish and invertebrate species. MPA spacing and boundaries are based on SAT scientific guidelines that consider such factors as fishing effort, distance from ports, habitat, and numerous other factors. The boundaries presented in the Project are a reflection of those guidelines and factors.</p> <p>The Commission considered several sub-options for Cambria that addressed designation as a SMR or SMCA and boundary options. The proximity of an existing land based preserve and research facility to the placement of the White Rock (Cambria) SMCA will provide an area for replicate habitats and may provide varying levels of protections for comparison between an area which allows recreational fishing only with an area in which all take, except commercial kelp harvest, is prohibited. The Project aims to enhance recreational fishing near a population center (Cambria) by prohibiting commercial take in an area traditionally accessed by recreational users.</p>
392	41	California already has enough MPAs	The MLPA contemplates the review and improvement of the existing system of MPAs. Many areas will still be left open for fishing. See also Master Responses 1 and 4.
	42	Supports original Aug 15 2006 preferred alternative. Weakening the August 15th alternative will degrade the ecological communities or reduce the forage base.	The commenter does not provide evidence of significant ecological impacts nor does the comment show evidence of depleting the forage base or available habitat.
	43	Supports original Aug 15 2006 preferred alternative. Allowing spot prawn fishing would reduce area covered by SMRs in the central coast.	Under the project, both Soquel Canyon and Portuguese Ledge are listed as SMCAs not SMRs. The Commission determined not to allow spot prawn take in these areas.
	44	Recommends increasing restrictions on take of forage species for research opportunity	The project allows the take of pelagic forage species, such as sardines and anchovy, in both Portuguese Ledge and Soquel Canyon. The project provides a large number of MPAs that prohibit the take of forage species, and provide opportunities to study trophic structure and food web interactions.

Commenter	Comment number	Comment Summary	Response
	45	Does not support preferred alternative. There is already an MPA with similar habitat.	Under the goals, objectives and scientific guidelines set forth in the MLPA Master Plan, replicate habitats should be included in each region. Thus, there may need to be more than one MPA in a region with similar habitat. See Master Response 4.
285c	46	Does not support preferred alternative. The MPA exceeds recommendations of the SAT or the scope of the MLPA, in particular near Cambria.	See Master Responses 1 and 4. With reference to the White Rock (Cambria) SMCA, the SAT analyzed alternatives that did not include the area and found it was necessary for kelp connectivity. Without the White Rock (Cambria) SMCA there would be a gap in key habitats including kelp. The project boundaries provide for a high level of protection of a diverse area containing shallow hard and soft habitats, pinnacles, and associated fish and invertebrate species adjacent to an existing land based preserve and research facility. The White Rock (Cambria) SMCA will enhance recreational fishing near a population center (Cambria) by prohibiting commercial finfish and invertebrate take in an area traditionally accessed primarily by recreational users.
	47	Urchin are a pest and a nuisance, if you close the area to urchin harvest you will have urchin barrens. You must remove urchins to maintain a healthy environment.	See Master Responses 1 and 5. The MLPA contemplates the protection of the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems. Urchins are a natural ecosystem component, and are afforded protection to preserve the integrity and natural predator-prey relationships. In existing MPAs in California, urchin barrens have been less common than non-MPA areas nearby.
278b, 279b, 286c, 290b, 291b, 297a, 321b	48	Do not change the status of an SMR to SMCA to allow kelp harvest	See response to comment 33 for kelp harvest rates. The Año Nuevo and Cambria areas have existing kelp leases. The commercial take of kelp has existed in these areas and there have been no adverse environmental impacts from these kelp leases prior to MLPA proposals. With the adoption of the preferred alternative, restrictions will be implemented that limit the take of kelp and further prevent adverse ecological impacts.
278c, 286d	49	Kelp thinning has major ecological impacts on trophic structure and ecosystem function	Current kelp harvest practices have not been found to have adverse ecological impacts. The MLPA contemplates adaptive management and changes in take designations may be made as warranted.

Commenter	Comment number	Comment Summary	Response
	50	How is recreation enhanced by no-take MPAs?	No-take MPAs (i.e. SMRs) protect a diversity of marine life, various life stages (such as large reproductive individuals), and a diversity of habitat. SMRs may help rebuild depleted stocks and/or ecosystem function. Protection of these components to the ecosystem enhances opportunities for research, education, and non-consumptive recreational activities such as wildlife viewing and non-consumptive diving.
	51	Concerned with Pigeon Pt. to Waddell creek. The area has been closed for 10 years for abalone. Poaching has proliferated in the area due to the high numbers of abalone. The honest fisherman will be punished; it will become a poacher's paradise.	The commenter provides no evidence that poaching has or will increase. The Commission adopted suboption 2 for Año Nuevo. The take of all living marine resources (except giant kelp <i>Macrocystis pyrifera</i>) is prohibited. This simplifies enforcement, since giant kelp is easily distinguished from other living resources.
	52	Suggests changing areas to maintain conservation measures but increase angler safety/opportunity.	See response to comment 40.
	53	Supports MPAs and suggests an increase in the percentage of "no-take" reserves	The project provides a percentage of "no-take" SMRs well within the range recommended to the Commission by the SAT. The MLPA specifically notes the benefits of no-take reserves and the need to improve the existing system.
	54	Does not support MPAs or the MLPA process.	Comment noted; see Master Response 1.
	55	Ecotrust economic data is wrong	EcoTrust was contracted to perform an analysis of areas of greatest user value to commercial fishing. This analysis was not -- nor was it intended to be -- an analysis of economic impacts. The final analysis from EcoTrust was based on the best readily available science and was peer reviewed. See also Master Responses 2 and 3.
	56	Existing fisheries management measures have not had enough time to work - wait until those show results	See Master Response 5.
	57	Enforcement needs clearly defined boundaries	Great care has been taken to place boundary lines along straight lines that follow latitude/longitude whenever possible. MPA boundaries were also delineated in regards to easily recognizable landmarks or shoreline features when feasible. These issues will be further mitigated with increased enforcement levels and the use of new technology.

Commenter	Comment number	Comment Summary	Response
	58	MPAs in state waters do not protect fish in federal or international waters	The MLPA is limited the waters of the State. However, the MLPA does work in conjunction with federal regulations to provide for the conservation of biological diversity, the overall health of marine ecosystems, the recovery of wildlife populations, and habitat protection. Migratory species move freely between state and federal waters and so may not derive the same from MPAs than more stationary species do. Such species may be subject to additional federal or international protections that are outside the scope of the proposed rulemaking.
	59	Increase the rockfish bag limit	The MLPA and the MPA network are not designed to alter bag limits. See also responses to comments 30 and 39 and Master Response 5.
	60	Supports elimination of spot prawn fishing to preserve a natural balance	Comment noted. See responses top comments 34 and 44.
	61	Consider the mayor of Morro Bay's letter	See responses to comments 24 and 40.
	62	Provided information on how to initiate a lawsuit against the process	Comment noted.
	63	Need local input. The resources are not the same in northern California as they are in southern California	The MLPA process took into account relevant information from local communities, and actively solicited input from stakeholders and other interested parties. This is accomplished through the formation of Regional Stakeholder Groups, which are comprised of individual study region residents who are willing and able to represent affected members of the study region. Regional Stakeholder Groups are included throughout the MLPA process and in fact assist in with the development of Proposed Alternatives. See response to comment 25.
262d, 265d	64	Have studies been conducted to show MPAs work in other areas?	A large amount of peer-reviewed literature has been published on MPAs throughout the world. A variety of literature on the subject can be found on the MLPA website at http://www.dfg.ca.gov/mrd/mlpa/index.html as well in the Master Plan.
	65	Maybe we should recover lost gillnets.	This comment is outside the scope of the proposed regulations.
	66	Moving the boundaries of specific MPAs will keep local economies alive and prevent the need to purchase seafood from overseas	The commenter does not provide evidence that moving certain proposed MPA boundaries will have the effect described. See response to comment 40.
340, 388a	67	Supports spearfishing in MPAs. Data indicates fishery is healthy and spearfishing supports DFG data collection.	Comment noted. See responses to comments 18 and 39 and master response 5.

Commenter	Comment number	Comment Summary	Response
308	68	Commenters urge the Commission honor kelp bed leases	The proposed regulations allow for kelp harvest in leased areas. [See Fish and Game Code subsection 2857(d)].
	69	Allow kelp harvest but do not downgrade SMR status to honor kelp leases	An MPA must be designated as a SMCA to allow kelp harvesting. See response to comment 70.
	70	Regulate kelp harvest guidelines for each individual area.	Kelp harvest guidelines for each MPA are provided for those where commercial kelp harvest is proposed. The proposed limit within Edward Ricketts SMCA is 12 tons per harvester per month; and 44 tons per month per harvester in the Pacific Grove Marine Gardens SMCA. Proposed regulations in these MPAs limiting the take of kelp to hand harvest only will help limits potential ecological impacts of harvest by decreasing potential bycatch and potential total take.
	71	Commenter suggests moving the Purisima Point northern boundary because the preferred alternative envelops prime fishing grounds and impacts local fish producers/markets and sport fishing vessels.	See responses to comments 40, 66, 36, 27, and Master Response 3.
	72	Preferred alternative does not recognize aboriginal fishing rights in closures at Vandenberg SMR	The MLPA does not restrict aboriginal fishing rights. The Department has afforded the San Ynez Band of Chumash Indians the opportunities to participate in the stakeholder process through numerous public hearings and public comment periods along with other stakeholder groups. The Draft EIR considered aboriginal fishing rights as part of the larger analysis related to effects of the MLPA process on fishing. Many areas would remain open to fishing with little impact to tribal fisherman.
	73	Rockfish populations are not depleted in waters near Morro Bay, there is insufficient data to support MPAs, and the current management practices are sufficient	See responses to comments 30, 39, and 59, and Master Responses 2 and 5.
414	74	Petition to stop excessive regulation of fishermen (2,487 signatures - not including those in the pre-adopt) – <i>see form letter K</i>	Comment noted see also responses to comments 24, 36, and Master Response 3.

Commenter	Comment number	Comment Summary	Response
	75	Letter addresses such issues as elimination of prime fishing grounds, lack of stakeholder involvement/use of input, displacement of fishing effort, flawed science and socioeconomic analysis, unclear/faulty MPA objectives, limits of enforcement and funding, lack of consideration to the sport fishing fleet	See responses to comments 20, 24, 25, 27, 46, and 142 as well as Master Responses 1, 2, and 3.
	76	The monitoring plan is insufficient to provide necessary data	The MLPA expressly contemplates adaptive management as a program tool [Fish and Game Code subsection 2852(a)]. The Master Plan and the Monitoring Plan will evolve as new data and information come available. The monitoring plan is written to build on existing monitoring programs to maximize effort and the information gained. Additionally, the monitoring plan allows for new approaches to be developed to gather required data. See Master Response 2.
278I	77	Supports Option 1 for Soquel Canyon and Portuguese Ledge SMCAs	Comment noted. The Commission adopted these suboptions.
324a, 345c	78	Supports Option 3 for Ed Ricketts SMCA	See response to comment 9.
387,388b	79	Discussed spear fishing aspects to dispel inaccuracies	Comment noted. See responses to comments 7 and 8.
	80	Does not support the preferred alternative/fisherman traveling farther will increase state pollution	The potential impact of increased emissions from vessel traffic on air quality is discussed in EIR Section 5. The EIR makes conservative assumptions regarding the extent of additional vessel transit, as well as using very conservative significance thresholds, resulting in a conclusion of a potentially significant and unavoidable impact. It is likely that this conclusion is an overestimate. It is impossible to predict whether vessels will travel further to fish in areas beyond an MPA or will travel less far and fish nearer to port, reducing emissions.
	81	Expresses specific concern over quantity of plastic in the ocean and urges for the strongest alternative	Comment noted. See response to comment 29.
307, 314, 329, 330, 331, 332, 341, 343, 348b, 374c	82	Supports the March 2, 2007 sub-options for boundary changes 5 MPAs	The Commission considered all alternatives, but adopted the preferred alternative.
	83	Submitted article on artificial reefs	Comment noted. Artificial reefs are outside the scope of these regulations.

Commenter	Comment number	Comment Summary	Response
241b	84	Expand option 2a for Ed Ricketts to include that fishing is only allowed during weekdays for all of Ed Ricketts SMCA except disabled persons may fish any time	See responses to comments 10, 11, and 12. Recreational fishing with hook and line from small boats is a legitimate traditional use.
242b	85	Current FMP's are sufficient to sustain fisheries	See Master Response 5
244, 278k, 365d	86	Supports option 1 for northern boundary line and option 2 for the southern boundary line for Cambria marine protected areas.	The Commission considered all alternatives, but adopted suboption 1 for the northern Cambria area (Cambria SMCA) and suboption 3 for the southern Cambria areas [White Rock (Cambria) SMCA].
245b	87	Does the MLPA circumvent the legal process and my civil rights and right to vote on it?	No. See Master Responses 1, 6, 7.
252,282a, 366	88	Urges for consideration of adverse impacts to military readiness with the Vandenberg SMR, and if adopted requests a MOU that does not subject the DoD to state regulations or retard future military activity	Comment noted. The Marine Managed Areas Improvement Act, which works with the MLPA, ensures that its classification will not be inconsistent with activities deemed mission critical by the U.S. military (Public Resources Code Section 36711).
272, 276, 277, 358c	89	Ban spearfishing contests in MPAs	See responses to comments 7 and 8
257	90	Supports Option 2 for Cambria SMCA. This would allow kayak anglers access at the Harvey St. public beach access.	The Commission considered all alternatives, but adopted suboption 1 for the northern Cambria area (Cambria SMCA) and suboption 3 for the southern Cambria areas [White Rock (Cambria) SMCA].
278e, 284, 346b	91	Designate Año Nuevo and Cambria as SMCAs until the kelp leases run out then turn them into SMRs	Comment noted. The Commission adopted these SMCAs. Future reclassification as SMRs would require a separate rulemaking file after the expiration of the kelp leases.
264, 268, 299a, 389	92	CalCOFI study indicates that rockfish are not in decline. Therefore, the MLPA process is not considering the best available science.	See Master Responses 2 and 5 and response to comment 39.
261, 281	93	Supports conservation measures and boundary changes that are well balanced to allow for fishing opportunities but are based on sound science to also protect fishery resources	Comment noted. See Master Responses 2 and 5.

Commenter	Comment number	Comment Summary	Response
282b	94	DoD opposes MPAs that adversely affect military activity around San Clemente and San Nicolas Islands and Camp Pendelton.	Comment noted. These areas are outside the geographic area of the MPAs in this rulemaking package.
356b	95	MPAs will create a severe economic hardship for coastal communities.	The commenter does not provide evidence that coastal communities will suffer economically. See response to comment 24.
287b	96	Recreational anglers purchase licenses and equipment and contribute to the Department's revenue. Please recognize this investment in sustainable fisheries and manage marine resources near my home appropriately.	Comment noted.
289	97	Proposes a balance between existing local kelp harvesters and the ecological and economical (from tourism) benefits of leaving kelp in place. Suggests changes to proposed kelp harvest regulations for Pacific Grove and Ed Ricketts SMCA to allow harvest in bed 220 that do not exceed 25% more than the annual average kelp harvest from 2000 to 2006	Current kelp harvest practices have not been found to have adverse ecological impacts. Based on historic monthly kelp harvest in area the proposed regulations will maintain an acceptable level and place a cap on harvest. However, the MLPA allows for adaptive management if adverse ecological impacts occur as a result of these regulations. See also responses to comments 33, 48, and 70.
292b	98	We need to decrease the impact of the US military operations adjacent or within the State of California's MPAs.	The MLPA does not manage military operations. A MOU is being initiated with the Vandenberg Air Force Base to minimize and address impacts. See also response to comment 88.

Commenter	Comment number	Comment Summary	Response
293, 298a, 336a	99	The Department has not provided access to the CEQA documents as they should have. There have been flaws in distribution of those documents and the process should be put on hold for public review and input.	The comment does not identify in what way access to documents was deficient. A Notice of Preparation was filed with the State Clearinghouse and distributed on July 11, 2006. Distribution also included extensive list of MLPA Initiative interested parties (addresses and e-mails) developed from website and meetings dating back to October 2004. A Notice of Completion and Notice of Availability was filed on November 17, 2006. A 45-day public review and comment period occurred from November 17, 2006 to December 31, 2006. The notices were distributed to same list as noted above. Hard copies of the Draft EIR were sent to libraries, harbor masters, various CDFG offices, responsible and trustee agencies throughout the State (a list including 81 separate locations, two of which were specifically checked to ensure availability in the commenter's locality). The Final EIR was completed and distributed on March 15, 2007. The only distribution requirement of the Final EIR is to provide proposed written responses to any public agencies that commented on the Draft EIR at least ten days prior to Lead Agency certification. The Department did this, and also sent hard copies to the same distribution of depositories that received the Draft EIR.
279c, 290c, 291c, 346c, 350b, 365c	100	Do not reduce the SMCA level from high to medium at Soquel Canyon and Portuguese Ledge SMCAs by allowing spot prawn fishing in these areas.	Comment noted. The project as a whole meets the goals and objectives of the MLPA and scientific guidelines developed during the process including the allowance or disallowance of spot prawn fishing at Soquel Canyon or Portuguese Ledge.
298b, 299c, 336b	101	The MLPA process is too fast and needs to slow down to allow time for review of documents and data. We do not need politically driven agendas or timelines.	Comment noted. See Master Responses 1, 2, and 6.
298c, 336c	102	Commenter believes the Department violated CEQA by breaking California into regions (phases) and violated the "Constitutional Due Process rights of people" affected by the MLPA.	There is no provision in CEQA or in the MLPA requiring California to be considered as a whole in the MPA process. Due to the large geographic scale it is impractical to attempt to study and implement MPAs across the entire California coast at one time. Rather, the process relies on establishing a network that links one study region to the next. When completed, each region will look at the cumulative impacts on the environment of previous regions to ensure impacts are adequately considered. Adaptive management allows changes to ensure a functional network of MPAs. See also Master Response 1.
286b	103	Supports changes in the ISOR to further define species groups such as finfish	Comment noted.

Commenter	Comment number	Comment Summary	Response
262c, 265c, 299b	104	Why wasn't the CalCOFI study and other information made available to the Commission?	The CalCOFI study was published in 2006, see <i>Stephens et. al. 2006. Rockfish resources of the south central California coast: analysis of the resource from party-boat data, 1980-2005. CalCOFI Rep., Vol 47, 140-155.</i> The report is publicly available (http://www.calcofi.org/newhome/publications/CalCOFI_Reports/v47/vol47_toc.htm) and was available to the Commission. One of the primary authors was a SAT member who provided input during the process.
278d	105	DFG does not provide rationale in the ISOR for allowing kelp harvest at Año Nuevo and Cambria.	Existing data on the harvest of giant kelp and bull kelp indicate that no adverse ecological impacts would occur. However, the MLPA provides for adaptive management measures to facilitate revisions if adverse ecological impacts do occur as a result of implementing these regulations. See also responses to comments 33 and 48, and Fish and Game Code subsection 2857(d).
278h	106	The Department has not provided any rationale for an option allowing the take of spot prawn.	The Commission wished to consider options that might reduce economic impact to fisheries while still providing habitat protection. The spot prawn fishery is a relatively low impact fishery and would not threaten the integrity of the MPAs if allowed. The Commission selected an option prohibiting the take of spot prawn in Monterey Bay MPAs based on other MLPA considerations.
286e	107	The ISOR does not provide an analysis on the impact newly proposed changes would have on the effectiveness of the proposed protected areas to meet the goals of the MLPA.	The project as a whole meets the goals and objectives of the MLPA and scientific guidelines developed during the process the proposed sub-options do not significantly alter that package or the ability of the project to meet the goals and objectives of the MLPA. The MLPA allows for adaptive management if adverse ecological impacts occur as a result of these regulations.
298d, 336d	108	There is no justification to support statements that MPAs increase populations of fish that were previously fished while previously unfished populations remain unchanged.	A large amount of peer-reviewed literature has been published on MPAs throughout the world. A variety of literature on the subject can be found on the MLPA website at http://www.dfg.ca.gov/mrd/mlpa/index.html as well in the Master Plan. Also see responses to comments 30, 39, and 59, 64, and Master Responses 2 and 5.
321d	109	The CalCOFI 25 year study on the status of nearshore fisheries had problems and clearly stated that it was not a fisheries stock study, lacked standardized sampling for CPUE, lacks geographical range, and did not sample in the same areas throughout study.	Comment noted.

Commenter	Comment number	Comment Summary	Response
371c	110	Proposes changing the name of the Lovers Point SMR to Edward F. Ricketts State Marine Reserve	Comment noted.
339a	111	Commenter suggests interviewing interests in the Channel Islands to hear how MPAs have affected local fishermen and coastal communities prior to implementing them in the central coast region.	All MPAs have a monitoring component to understand the impacts MPAs have on various user groups and communities. The Department has tracked fisheries in the Channel Islands since the implementation of MPAs there. No significant decreases in fish catch have been found that could be attributed to the MPAs.
348a	112	Cites 1,100 signatures on petition to reduce the size of proposed MPA areas - <i>see form letter K</i>	Comment noted see also responses to comments 24, 36, and Master Response 3.
312, 342c	113	Recommends classifying the Cambria SMR as a SMP	Comment noted. The Commission adopted this area as an SMCA. Only the State Parks Commission has the authority to adopt SMPs.
323b	114	Do not close areas if resources can be sustainably harvested.	See Master Response 5 and response to comment 39.
239, 333	115	Spearfishing tournaments are ecologically minded and do not waste fishery resources. Commenter supports fishing tournaments and in particular spearfishing tournaments	Comment noted.
363c	116	Commenter opposes last minute changes presented to the Commission by the Department.	There were no last minute changes presented at the April 13, 2007 meeting. The Department presentation outlined existing options presented in the packages, and provided its recommendations.
364a	117	We have the oldest and largest MPAs of anywhere in the world. There's been no measurable benefit of those MPAs over the last 50 years	One purpose of the MLPA is to assess and review existing MPAs. The MLPA process is designed to eliminate unnecessary or dysfunctional MPAs and allows for the creation of new MPAs or re-classification of MPAs to meet the goals of the MLPA. See Master Response 1.
363b	118	Recommends gradually phasing out fishing activities at Soquel Canyon.	It was determined that the take of pelagic finfish at Soquel Canyon would not to have an adverse environmental impact. The MLPA contemplates adaptive management and changes in take designations may be made as warranted. A gradual phasing out of fisheries would require a change in status of the MPA from a SMCA to a SMR.

Commenter	Comment number	Comment Summary	Response
364b	119	MPAs should not be compared to protected areas on land. The boundary lines will be unenforceable.	MPAs are not designed to function similar to terrestrial protected areas and MPA boundaries are based on the guidelines provided by the SAT which consider spacing, habitat, distance to ports, fishing effort and numerous other considerations. MPA boundaries often follow straight lines along latitude and longitude to ease enforceability, and be easily identifiable by the public.
365e	120	Does not support changes at Vandenberg and Pt Sur	Comment noted.
367	121	Commenter presented 800 postcards in support of the preferred alternative	Comment noted.
362c	122	Recommends postponing the process to review the validity of the MLPA process with California law.	Comment noted. See Master Responses 1, 2, 6 and 7.
355b, 379d	123	Commenter states that eliminating spot prawn fishing from Soquel Canyon and Portuguese Ledge would drive him out of business.	See response to comment 36.
354	124	Read form letter from the Ocean Conservancy (see form letter B)	Comment noted. The Commission considered all alternatives, but adopted the preferred alternative.
338	125	No staff report was available on the recommendations the Department provided to the Commission in its presentation on April 13, 2007 of the MPA packages and options.	No such staff report was required. The Department presentation at the April 13, 2007 Commission meeting outlined alternative packages and options provided in the ISOR, which has been publicly available. The Department also provided its own recommendations.
320a	126	Recommends reconsidering the Carmel Pinnacles SMCA as it is a critical area for kayak anglers	The MLPA contemplates that MPAs be designed in part to provide for protection of replicate habitats such as, shallow hard and soft habitats, kelp beds, pinnacles, and associated fish and invertebrate species. MPA spacing and boundaries are based on guidelines provided by the SAT which consider such factors as fishing effort, distance from ports, habitat, and numerous other factors. The boundaries presented in the project are a reflection of those guidelines and factors.
310a	127	Supports option 1 for Año Nuevo	Comment noted. The Commission adopted suboption 2 for this area.
285d	128	Commenter provided 43 signatures that agree with comments 25, 40, and 46	Comment noted. See responses to comments 25, 40, and 46.

Commenter	Comment number	Comment Summary	Response
271	129	The City of Pacific Grove should manage its own resources	It is well-settled that the power of local government to adopt ordinances regulating the pursuit of fish and game terminated in 1902 with the adoption of article 4, section 25 ½ (now section 20) of the State Constitution. Insofar as a local ordinance undertakes to regulate the field of law regarding fish and game which article 4, section 20 reserves to the Legislature, it is void. [Ex parte Prindle (1905) 94 P. 871, In Matter of Application of Cencinino (1916) 31 Cal.App. 238, In re Makings (1927) 200 Cal. 474; see also 70 Ops. Cal. Atty. Gen. 210 (1987)].
258b	130	Supports sustainable kelp harvest	Comment noted. See also response to comment 33
255, 313b	131	Does not support proposed March 2, 2007 boundary change options	Comment noted.
381	132	Commenter suggests changes to the western boundary of Año Nuevo will burden the fishing community and may not be consistent with the legal process.	The MLPA requires that MPAs be designed in part to provide for protection of replicate habitats such as, shallow hard and soft habitats, kelp beds, pinnacles, and associated fish and invertebrate species. MPA spacing and boundaries are based on guidelines provided by the Science Advisory Team which consider such factors as fishing effort, distance from ports, habitat, and numerous other factors. The boundaries presented in the Commission's preferred alternative are a reflection of those guidelines and factors. See also responses to comments 36, 57 and Master Responses 1 and 2.
294	133	Commenter urges Commission to establish the entire Pacific Grove coastline out to a depth of 60ft a state marine reserve.	See response to comment 26.
374a	134	Please choose the least restrictive alternative for fishermen.	Comment noted. The Commission considered all alternatives, but adopted the preferred alternative.

Commenter	Comment number	Comment Summary	Response
382	135	Commenter provided copy of portions of California State Constitution addressing right to fish and access to public lands	<p>Some assert that Article 1, Section 25, of the California Constitution seems to give the public a “right to fish.” It states “The people shall have the right to fish upon and from the public lands of the State and in the waters thereof...provided, that the legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken.” This “right to fish”, however, is not absolute. In 1918, the California Supreme Court considered whether a law providing for the licensing of fishermen was unconstitutional because it violated Article 1, Section 25. The court rejected the argument, finding that the provision authorizing the Legislature to fix the seasons and conditions under which fish are taken was intended to leave the matter in under the Legislature’s discretion [<i>Paladini v. Superior Court</i> (1918) 178 Cal. 369]. As recently as 1995, a court reaffirmed the qualified, not fundamental, right to fish and that the language of the State Constitution was not intended to curtail the ability of the Legislature (or the Fish and Game Commission through legislated authority) to regulate fishing [<i>California Gillnetters Association v. Department of Fish and Game</i> (1995) 39 Cal.App.4th 1145].</p> <p>Section 25 must be read in connection with article 4, section 20 (formerly section 25½), which states that the Legislature may enact appropriate laws for protection of fish and game, and may delegate to the Fish and Game Commission such powers relating to protection and propagation of fish and game [<i>Ex parte Parra</i> (1914) 24 Cal.App. 339, 340]. In that respect, the California Supreme Court found it “most apparent” that the purpose of (now) article 4, section 20 “was to clothe the Legislature with ample power to adequately protect the fish and game of the state.” Further, the California Supreme Court has long declared that the power to regulate fishing has always existed as an aspect of the inherent power of the Legislature to regulate the terms under which a public resource may be taken by private citizens [<i>In re Phoedovius</i> (1918) 177 Cal. 238, 245-246; <i>People v. Monterey Fish Products Company</i> (1925) 195 Cal. 548, 563]. This regulatory power clearly includes the regulation of fishing within MPAs [Section 2860, FGC].</p>
371e	136	Commenter suggests extending the boundaries for the Carmel Pinnacles SMR to shore.	Comment noted. See also response to comment 40

Commenter	Comment number	Comment Summary	Response
356a	137	Does not support the preferred alternative, process is scientifically flawed	See Master Response 2.
356c	138	Commenter cites a public poll addressing the public's desire for sustainable practices and allowing sustainable harvest. Commenter suggests that MPAs displace effort in an unsustainable manner.	Comment noted. See responses to comments 20 and 27.
380b	139	Commenter proposes moving southern border of Pt Sur SMR to Big Sur River mouth to allow fishing on part of the reef for research on "spill over theory" and the effects of fishing pressure on similar habitats	See responses to comments 57, 138, and 140. Further, research opportunity exists through the network of MPAs, other MPAs containing similar habitats, and through comparison to reference areas, containing similar habitat, outside MPAs. One of the goals of the MLPA is to provide protection for ecosystem structure, function, and integrity. MPA boundaries were developed considering this important goal and the size of the MPAs reflect the goals of the MLPA. Additionally, one objective identified in the Master Plan for the Pt. Sur SMR is to protect an area of high species diversity associated with upwelling in the lee of a headland and an area immediately north of a headland.
380c	140	Commenter states that by moving southern border of Pt Sur SMR to Big Sur River mouth the SAT guidelines will still be met and this reserve is actually an "extra" reserve	See Master Responses 1 and 4. The MLPA contemplates that MPAs be designed in part to provide for protection of replicate habitats. MPA spacing and boundaries are based on guidelines provided by the SAT which consider such factors as fishing effort, distance from ports, habitat, and numerous other factors. The boundaries presented in the Commission's preferred alternative are a reflection of those guidelines and factors. Under the goals and objectives set forth in the MPA Master Plan, replicate habitats should be included in each region. Therefore, there may need to be more than one MPA in a region with similar habitat.
383	141	Use of private funds and non-governmental contractors is inappropriate.	See Master Response 6.

Commenter	Comment number	Comment Summary	Response
383	142	The BRTF and SAT may have violated the <u>Bagley-Keene Open Meeting Act</u> by preventing the public from attending important deliberative meetings.	See Master Response 7. Any inference that the commenter had no opportunity to meaningfully participate in the process is without merit. No less than six Coalition members were represented on the Regional Stakeholders Group: the Port San Luis Commercial Fishermen's Association, the California Wetfish Producers Association, the Recreational Fishing Alliance, the South-Central Nearshore Trap Organization, the Central Coast Fisheries Conservation Coalition, and the Morro Bay Commercial Fishermen's Organization. The commenter ¹ was directly represented on Statewide Interest Group, and indirectly by another Coalition member, the Recreational Fishing Alliance.
383	143	The regulations do not take into account existing fishery management measures.	See Master Response 5.
383	144	The proposed MPAs are not based upon the best available scientific information.	See Master Response 2. The "Hillborn Report" the commenter references ["Peer Review: California Marine Life Protection Act (MLPA) Science Advice and MPA Network Proposals (May 25, 2006)"] was addressed in detail in the Final EIR responses to comments. The neutral third party retained to facilitate the RSG (of which the commenter was a member), noted this report fell short of a classic "arm's length" peer review and that a true peer review "would not be commissioned by or affiliated with a specific stakeholder group." (CONCUR Facilitator's Report (August 2006) at page 26.
383	145	Fisheries management measures are sufficient to achieve the goals of the MLPA.	See Master Responses 1 and 2.

¹The Coalition website (www.cafisheriescoalition.org) states it "has participated in all aspects of the Marine Life Protection Act Initiative, contributing significant resources to coordinating and delivering stakeholder input from economically important fishing communities," and boasts its economic reach encompasses "more than 14,000 commercial fishermen," "more than 4,000 fishing vessels," "several million recreational anglers," "more than 200 seafood companies," and "approximately 172,000 people employed by our partner businesses."

Commenter	Comment number	Comment Summary	Response
383	146	The proposed MPAs do not incorporate a regional approach.	Paradoxically, the Coalition previously took the exact <i>opposite</i> position in its EIR comments, arguing that proceeding “with a small portion of what the Legislature and the statute intended to be a statewide project” was in conflict with CEQA. There is no requirement in the MLPA that prohibits the Commission from implementing the MLPA in a regional manner. Impacts of the project in combination with other existing and future MPA designations were explicitly addressed in Section 8.4 of the Draft EIR (Cumulative Impacts, beginning on page 8-2). Further, the MLPA expressly addresses the concepts of “regions” and “networks” ² , expressly authorizes regional networks ³ , contemplates multiple networks ⁴ , and the phasing in of MPAs, which is consistent with a regional approach ⁵ . The <u>Marine Managed Area Improvement Act</u> also contemplates “networks of sites.” ⁶
383	147	The assessment of socioeconomic impacts is inadequate.	See Master Response 3.
383	148	The Department rejected all of the Coalition's comments on the DEIR.	The comment confuses volume with substance. The Coalition indeed submitted about 80 pages of materials on the Draft EIR, from which 31 distinct comments were identified. Each comment was systematically evaluated and responded to, often in great detail, consistent with CEQA ⁷ , and the Guidelines promulgated pursuant thereto. ⁸ Of these 31 comments, at least 16 constituted unsubstantiated narrative or opinion and 1 comment addressed the proposed regulations, not the Draft EIR. The remaining 14 comments received detailed responses either directly or by reference to comprehensive Master Responses.
301b	149	Deeper nearshore fishing permits need to be finalized: application of final permit criteria; creation of transferable deeper nearshore permit; deeper nearshore permits should be area specific; and nearshore permits need to be one-to-one transferable.	These comments are outside the scope of the proposed regulations.

²Fish & Game Code §§ 2852(b), 2853(b)(6).

³Fish & Game Code § 2856(a)(2)(D).

⁴Fish & Game Code § 2857(c).

⁵Fish & Game Code § 2857(e).

⁶Public Resources Code § 36870.

⁷Public Resources Code § 21091(d).

⁸14 C.C.R. § 15088.

Several form letters were received via email in general support of marine protected areas. In many cases, commenters added personal text to a form letter or submitted a truncated version of the letter. Substantially equivalent variations of the same form letter were considered the same form letter. Table 6 lists the form letters that were in general support of a preferred alternative. The dates and number of form letters that were received on those dates are presented in Table 6. Form letter B is in support of the preferred alternative of the August 15, 2006 Fish and Game Commission meeting; a total of 224 were received since the Pre-adoption Statement of Reasons.

Table 6. Summaries of form letter B received in support of the Commission's preferred alternative of August 15, 2006 for MPAs in the central coast.

Date Received	Form Letter B
	Number of comments Received
3/16/2007	5
3/18/2007	1
3/19/2007	1
3/21/2007	119
3/22/2007	34
3/23/2007	12
3/24/2007	6
3/25/2007	5
3/26/2007	12
3/27/2007	3
3/29/2007	1
3/30/2007	2
4/1/2007	2
4/2/2007	5
4/3/2007	2
4/6/2007	8
4/7/2007	1
4/8/2007	1
4/10/2007	2
4/12/2007	1
4/11/2007	1
Total	224

Since the Pre-adoption Statement of Reasons 24 form letters (form letter D) in support of Alternative 2 were received (Table 7). A second grade school class submitted 20 letters in support of general ocean conservation and in support of a strong network of MPAs (see form letter G), and Senator Abel Maldonado forwarded 4 letters (form letter H) expressing concern over not using the best available science, referencing a fishery report published in 2006 (see *Stephens et. al. 2006. Rockfish resources of the south central California coast: analysis of the resource from party-boat data, 1980-2005. CalCOFI Rep., Vol 47, 140-155*). At the Commission meeting on April 13, 2007 a representative of the Monterey Bay Aquarium delivered 845 postcards in general support of ocean conservation and in support of a strong network of MPAs (see form letter I) that were collected at an aquarium exhibit, an additional 7 were submitted separately, and 21 were included as commenter number 188a-u in the Pre-adoption Statement of

Reasons. Not included in the Pre-adoption Statement of Reasons were 20 postcards in support of alternative 2 (see form letter J) and a petition in opposition of excessive regulation of fishermen submitted with 2,585 signatures (see form letter K).

Table 7. Summaries of form letter D received in support of Alternative 2 (Package 2R from the central coast regional working group process).

Date Received	Form Letter D
	Number of comments Received
3/9/2007	4
3/11/2007	1
3/12/2007	2
3/15/2007	5
3/18/2007	1
3/23/2007	1
3/24/2007	1
3/27/2007	1
4/1/2007	1
4/3/2007	1
4/4/2007	4
4/5/2007	1
4/8/2007	1
Total	24

Additional form letters that were received were included in the Pre-adoption Statement of Reasons and are attached below.

Form Letter B example

Jan 22, 2007

Mr. John Carlson
1416 Ninth Street
Sacramento, CA 95814

Dear Mr. Carlson,

California's coast is a public trust that belongs to all current and future citizens of our State. A strong and effective network of marine protected areas (MPAs), including marine reserves, will help protect our ocean heritage for future generations to use and enjoy. I support the proposed regulations for marine protected areas on the central coast and I urge the Commission to adopt no less protection than is contained in the "preferred alternative."

The Commission's "preferred alternative" represents a balanced approach, protecting some of the central coast's special ocean places like Año Nuevo, Point Sur and Piedras Blancas, while leaving much of the coast open to continued commercial and recreational fishing. Independent economic analysis demonstrates that the "preferred alternative" would result in minimal economic impacts in the short-term. In the long-term, marine protected areas are an investment in a healthy ocean and sustainable fisheries. This protection will pay dividends for decades to come.

In August 2006, your Commission selected as its "preferred alternative" an MPA network that reflected significant compromise. Many California residents, myself included, supported greater protection for our coast and ocean. I urge that the Commission adopt no less protection than the "preferred alternative" to ensure that California's ocean habitats receive adequate protection under the Marine Life Protection Act.

Please move forward to adopt and implement the "preferred alternative" network of marine protected areas for the Central Coast as quickly as possible. I also support all efforts to expand the MPA network along the rest of the California coast in a timely manner.

Sincerely,

Response to comments in form letter B

Comment noted. The Commission considered all alternatives, however, adopted the preferred alternative.

Support for 2R form letter D example

Dear President Flores and members of the Commission:

California's coast and ocean are an important part of what makes our state such a great place to live or visit. I urge you to support the strongest possible protections for our oceans by adopting package 2R.

Sincerely,

Response to comments in form letter D

Comment noted. The Commission considered all alternatives, however, adopted the preferred alternative.

Form Letter G example (20 letters of general support of ocean conservation from second grade school class)

♥ Dear Mr. Hattay, * Mach 12: 2007
☀ Hello, how are you? Please
try to save a lot of
California's oceans. People
are ruining the animal's
habitats and littering.
Many of the animals
are dying and more
oil spills are happening. It
would be nice if you could save
the animal's
habitats. * Sincerely,
* Sydney Livingston

Response to comments in form letter G

Comment noted. The Commission agrees that ocean conservation is an important issue.

Form letter H example (4 letters sent to Senator Abel Maldonado)

Senator Abel Maldonado
1356 Marsh Street
San Luis Obispo, Ca 93401

2007 APR -9 AM 11:33

III MAR 27 2007 III

BY: CR

Dear Senator Maldonado:

I am a resident of the Central Coast and have enjoyed the fishing opportunities here for most of my 55 years. I am concerned about the recent closures that may be implemented along our stretch of the California coastline. Enclosed you will find a letter to the California Fish and Game Commission with my concern that they are not using the 25 year study of CalCOFI when making closure recommendations. As you are aware the commercial fishing industry has been severely impacted by regulations and now the sport fishing industry is in jeopardy of the same. The financial impact to our area will be staggering and the "best available science" indicates that the nearshore rockfish along the Central Coast are not in decline. I realize that you are very busy but I would appreciate any help that you could give the fishing community. Thank you for your time.

Encl: 1

Sincerely;

Response to comments in form letter H

The goals of the MLPA do not include the management of individual fisheries, but include the protection of the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems. While certain fish stocks may be healthy, the MLPA still requires that habitats and ecosystems be protected through the designation of MPAs. State marine reserves provide complete ecosystem protection as well as protection to specific fisheries through a no-take designation. State marine conservation areas are established such that certain take may be allowed according to the objectives of the MPA. See also Master Responses 2 and 5.

Form letter / example (Postcards from display at Monterey Bay Aquarium in general support of resource conservation: 845 submitted at April 13, 2007 Fish and Game Commission meeting in Bodega Bay, 7 submitted separately, and 21 presented as comment 188a-u in the Pre-adopt)

Printed on recycled paper

Dear California Fish & Game Commission,

Please support a network of no-catch
marine protected areas, perhaps
modeled by New Zealand's Ministry
of Marine Resources and Conservation,
Sincerely, along the entire US west coast.
Thank You!

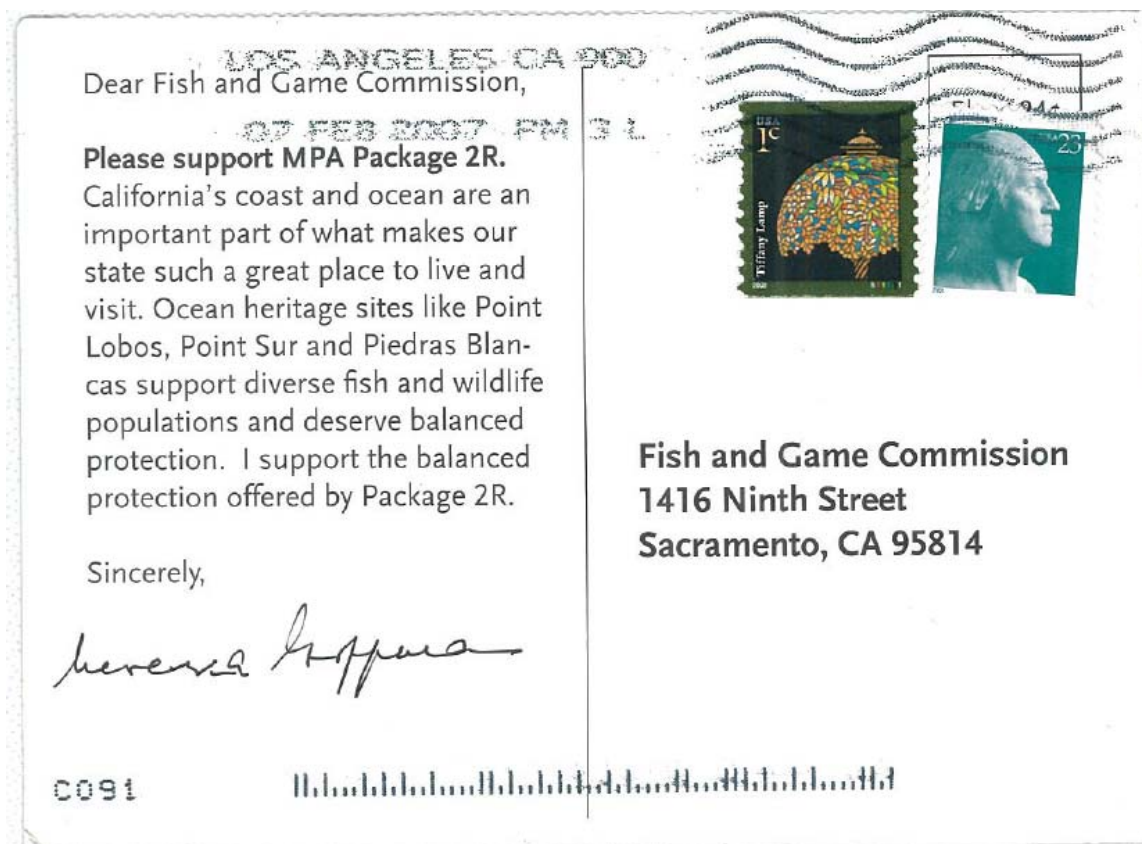
Name _____

Address _____

Response to comments in form letter /

Comment noted.

Form letter J example (20 postcards in support of package 2R)



Response to comments in form letter J

Comment noted. The Commission considered all alternatives, however, adopted the preferred alternative.

Form letter K example (petition to stop excessive regulation of fishermen 2,487 signatures, plus additional 98 in Pre-adopt)

Hafer 4/13/07

**PETITION TO STOP EXCESSIVE REGULATION
OF FISHERMEN**

We the undersigned consider the Fish and Game Commission Proposal for Marine Protected Areas on the Central Coast as unreasonable. It will cause unnecessary additional hardships on an already depleted fishing industry. As a result, it will cause unwarranted detriment to the livelihoods of several Morro Bay and Port San Luis businesses including the small family fishing businesses, sport fishing, and related industries.

NAME

BUSINESS ASSOC.

MARK BENBAKER	COMMERCIAL FISHERMAN SAULTA BARRERA	FIVE STAR FISH CO
980 ELLIOT LN. SOLVANG CA 93463	(805) 680-2354	
Mark Kelsey	16910 Stephanie St. Bakersfield Ca. 93314	(661) 979-5622
Sandra G. Slaghuys	8835 Pioneer Way, Hanford, Calif.	93280
William Slaghuys	8835 Pioneer St Hanford Ca 93250	
Vicky Briones	600 P STREET FIREBAUGH CA 93622	
Carolyn Ballard	16861 Morgan Cyn Prather CA 93657	
CHRIS SEARLE	9145 Spinglass St. Paso Robles Calif.	93446
Benjamin Puga	3602 Arcadia Morro Bay 93442	
Shirley Varny	1126 N Cherry Ln Clovis 93611	
Kelly Herman	19700 Lacey Blvd Kerners 93245	
Linda Hotchkiss	5990 San Sim. Ck Rd Camarillo 93428	
Howard R. Hotchkiss	5990 San Simon Ca Rd Camarillo 93428	
Terry Gibson	P.O. Box 142 Del Norte Ca 91916	
K. G. Alati	1243 Monterey St, SLO, CA	93401
Jack Arnold	P.O. Box 1371 MBAY CA 93443	
Muscha Arnold	P.O. Box 1371 MB 93443	

Response to comments in form letter K

Comment noted, see also responses to comments 24, 36, and Master Response 3.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

An alternative developed primarily by constituents representing recreational and commercial fishing interests along the central coast was included [Central Coast Regional Stakeholder Group (CCRSG) Alternative 1]. It consisted of 29 MPAs covering an area of approximately 171 square miles, representing approximately 14.9 percent of state waters within the central coast region. Of this, over one third of the area was within no-take state marine reserves covering approximately 60 square miles or approximately 5.2 percent of state waters within the central coast region. The Department clarified certain proposed regulations for specific MPAs with the Package 1 proponents and included these in the proposed regulations.

An alternative developed primarily by constituents representing nonconsumptive interests along the central coast, and modified slightly by the BRTF was included (Originally CCRSG Alternative 3R). It consisted of 30 MPAs covering an area of approximately 221 square miles, representing approximately 19.3 percent of state waters within the central coast region. Of this, more than two thirds of the area is within no-take state marine reserves covering approximately 148 square miles or approximately 12.8 percent of state waters within the central coast region. The Department clarified certain proposed regulations for specific MPAs with the Package 2R proponents and included these in the proposed regulations.

(b) No Change Alternative:

The no change alternative would leave existing MPAs in state waters of the central coast unchanged. This would provide no additional protection to resources or ecosystem-based protection. The no-change alternative would not address the goals of the Marine Life Protection Act and potentially lead to continued declines in certain populations of marine life, habitats, and the marine environment.

(c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

Each alternative may have negative short-term impacts on commercial and recreational fishing businesses. The impacts presented here do not represent a complete socioeconomic impact analysis, but rather what is generally referred to as a Step 1 analysis or “maximum potential loss.” This analysis simply sums up the activity that currently takes place within a given alternative and translates these activities into corresponding economic values. Maximum potential loss does not take into account other management strategies/regulations and human behavioral changes, such as moving to other areas or changing fishing gear, that may mitigate, offset, or make matters better or worse. In addition, maximum potential loss does not consider possible future benefits.

The estimates of maximum potential impact shown here rely on the survey work and subsequent geographic information system (GIS) data analysis conducted by Ecotrust and reported in various documents to the BRTF. Ecotrust interviewed fishermen to determine both location of fishing activities and the relative importance of each location. Wilen and Abbott (2006, ISOR

Attachment 7) combined Ecotrust's importance indices with cost share information from secondary sources to measure the maximum potential impacts of prospective closures on expected net economic values from commercial fishing. Wilen and Abbott's economic impact analysis included alternatives 1 and 2, along with other alternatives presented to the Commission. Once the Commission selected a preferred alternative, the methodology used to determine potential impacts for alternatives 1 and 2 were applied to the Proposed Regulation to develop an estimate. The estimates of the maximum potential annual losses for the three alternatives considered here (in real 2005 dollars) are approximately: \$670,000 (Alternative 1); \$1,260,000 (Alternative 2); and \$1,010,000 (Proposed Regulation) (Table 8). These are relative to average annual real 1999-2004 baseline gross revenues of approximately \$13,600,000 and net economic values of about \$8,800,000. They represent maximum potential percentage reductions in net pre-MPA economic values of; 7.5 percent (Alternative 1); 14.2 percent (Alternative 2); and 11.5 percent (Proposed Regulation) (Table 9).

It should be noted, however, that due to the methodology and need to maintain confidentiality of individual fishermen's financial data, the average impacts across fisheries may not be representative of the true maximum potential impact to an individual. In fisheries where there are few participants whose fishing grounds do not overlap (such as the spot prawn fishery) the numbers represented here may underestimate the maximum potential impact to individuals.

Table 8. Estimated annual maximum potential net economic value losses¹ relative to base scenario.

Fishery	Alternative 1	Alternative 2	Proposed Regulation
Anchovy	\$13,227	\$25,182	\$20,095
Cabazon	\$42,918	\$81,234	\$68,159
Dungeness crab	\$7,708	\$21,977	\$24,529
Deep Nearshore Rockfish	\$84,528	\$116,874	\$114,618
Halibut	\$13,492	\$20,992	\$20,112
Kelp Greenling	\$3,563	\$6,496	\$5,570
Lingcod	\$4,497	\$8,770	\$7,412
Mackerel	\$744	\$1,426	\$1,236
Rockfish Nearshore	\$73,302	\$131,432	\$115,028
Rockfish Shelf	\$7,109	\$12,074	\$7,881
Rockfish Slope	\$24,365	\$42,098	\$37,066
Rock Crab	\$9,966	\$11,055	\$11,321
Salmon	\$46,005	\$138,554	\$81,249
Sardine	\$39,830	\$84,297	\$63,698
Sablefish	\$40,032	\$136,567	\$139,908

Fishery	Alternative 1	Alternative 2	Proposed Regulation
White seabass	\$43,240	\$38,730	\$46,752
Surfperch	\$558	\$1,034	\$976
Spot Prawn	\$57,415	\$122,086	\$97,953
Squid	\$155,327	\$259,298	\$151,299
Total	\$667,826	\$1,260,176	\$1,014,862

¹ Losses are calculated in 2005 dollars.

Table 9. Estimated annual maximum potential net value losses in percentage terms

Fishery	Alternative 1	Alternative 2	Proposed Regulation
Anchovy	5.7%	10.9%	8.7%
Cabazon	14.6%	27.7%	23.3%
Dungeness crab	4.5%	12.8%	14.3%
Deep Nearshore Rockfish	16.5%	22.8%	22.4%
Halibut	6.4%	10.0%	9.6%
Kelp Greenling	13.1%	23.9%	20.5%
Lingcod	13.1%	25.6%	21.6%
Mackerel	5.4%	10.3%	8.9%
Rockfish Nearshore	14.3%	25.6%	22.4%
Rockfish Shelf	7.5%	12.7%	8.3%
Rockfish Slope	14.3%	24.8%	21.8%
Rock Crab	12.0%	13.3%	13.6%
Salmon	3.4%	10.3%	6.0%
Sardine	5.2%	11.1%	8.4%
Sablefish	6.8%	23.3%	23.9%
White seabass	9.1%	8.2%	9.9%
Surfperch	2.7%	5.1%	4.8%
Spot Prawn	7.3%	15.5%	12.4%
Squid	6.2%	10.3%	6.0%
Total	7.5%	14.2%	11.5%

Wilén and Abbott also computed rough estimates of secondary impacts on the fish processing industry and multiplier effects on the regional economy. These are proportional to the primary impacts described above (Table 10).

Table 10. Summary of estimated maximum potential economic impacts (annual real 2005 dollars) expanded by secondary and multiplier effects.

	Primary Impacts	Secondary Impacts	Induced Impacts	Total Impacts
Alternative 1	\$667,826	\$256,856	\$1,155,852	\$2,080,534
Alternative 2	\$1,260,176	\$484,683	\$2,181,072	\$3,925,929
Proposed Regulation	\$1,014,862	\$390,331	\$1,756,491	\$3,161,683

Ecotrust also analyzed the maximum potential loss to recreational fishing area in terms of percentage of the total fishing grounds and

percentage of the number of fishing trips in a given year. Ecotrust only used recreational skiff fishing data for these analyses and did not include Commercial Passenger Fishing Vessel (CPFV or “party boat”) spatial data. Similar to the commercial estimates of maximum potential loss, these estimates assume all fishing activity that previously occurred in a closed area is “lost” and not replaced by movement to another location. Estimates were made for the two primary recreational fisheries in the central coast region, rockfish and salmon. None of the alternatives had greater than a 15 percent impact to total fishing grounds for rockfish or greater than a 5 percent impact to total fishing grounds for salmon and none had greater than a 30 percent impact to fishing trips for rockfish or greater than a 5 percent impact to fishing trips for salmon (Table 11). While not economic losses, if realized, the loss in recreational fishing activity could lead to decreases in revenues to recreational fishing dependent businesses.

Table 11. Maximum potential losses to private skiff recreational fishing grounds and fishing trips for rockfish and salmon.

	Alternative 1	Alternative 2	Proposed Regulation
Percent Recreational Salmon Grounds	0.01%	2.41%	1.13%
Percent of Salmon Fishing Trips	0.14%	2.55%	1.90%
Percent Recreational Rockfish Grounds	5.48%	13.53%	11.98%
Percent of Rockfish Fishing Trips	16.10%	28.25%	21.84%

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Each alternative has potential impacts on the creation and elimination of jobs related to commercial and recreational fishing and non-consumptive activities. Estimates of the numbers of jobs eliminated as a direct result of the proposed action are difficult to determine. Commercial fishing operations are generally small businesses employing few individuals and, like all small businesses are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fish stocks and subsequently the long-term viability of these same small businesses. Jobs related to the non-consumptive tourism and recreational industries would be expected to increase over time by some unknown factor based on expected improvements in site quality and increased visitation to certain locations.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Any additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and depend on not only the impacts of the proposed regulation but also other regulations and processes. Current cooperative efforts with the Monterey Bay National Marine Sanctuary provide funding for some existing costs and are expected to increase with the adoption of this regulation. Changes in enforcement, monitoring, and management will increase costs to the Department of Fish and Game as compared to current efforts.

Based upon an analysis of costs of similar programs the estimated total costs for implementing the central coast MPAs ranges from \$1.8 to \$7.4 million, with an average of \$4.6 million (ISOR Attachment 8). These costs would increase as new study regions are designated and become operational. Funding was provided to the Department of Fish and Game in the 2006/2007 Governor's budget to cover the implementation costs of the central coast MPAs.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None

(f) Programs Mandated on Local Agencies or School Districts:

None

(g) Costs Imposed on Any Local Agency or School District that is Required to Be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

(h) Effect on Housing Costs:

None

Tables and examples of form letters from the Pre-adoption Statement of Reasons

Table 12. List of commenter names and assigned numbers from the Pre-adoption Statement of Reasons. Items shown in bold type are corrections to these tables based on the final review of these letters.

Commenter	Date	Type	First Name	Last Name
1	11/20/2006	written	Tom	Gooch
2	11/22/2006	written	Rose	Wayman-Kerr
3	11/29/2006	written	Sarah	Schoenbach
4	11/29/2006	written	Jan	Walker
5	12/4/2006	written	David	Bruner
7a-b	12/5/2006	written	Pierre	Felid
8a-b	12/6/2006	written	Ho	Chen
9	12/6/2006	written	Ho	Chen
10	12/13/2006	written	Tom	Gooch
11	12/9/2006	written	Chris	Settevendemie
12a-c	12/28/2006	written	Steve	Shimek
13a-c	1/1/2007	written	Jesus John Marc Mark	Ruiz Wolfe Shargel St Angelo
14	1/3/2007	written	W. D.	Andrews
15	1/7/2007	written	Tom	Hafer
16	12/23/2006	written	Greg	Glenn
17	1/2/2007	written	Julia	Thayer
18	12/28/2006	written	Kathie	Morgan
19	1/22/2007	written	Susan	Goldbeck
20	1/22/2007	written	Lorenzo	Rota
21	1/9/2007	written	Gerald and Beverly	Stinson
22	1/23/2007	written	Marc	Shargel
23	1/23/2007	written	Jesus	Ruiz
24	1/23/2007	written	Jesus	Ruiz

Commenter	Date	Type	First Name	Last Name
25	1/23/2007	written	Jesus	Ruiz
26	1/26/2007	written	Bill	James
27	1/26/2007	written	Mike	Johnson
28	1/29/2007	written	Ken	Stern
29	1/28/2007	written	Hector	Guitierrez
30	1/26/2007	written	Stacey	Conley
31a-b	1/26/2007	written	Cheryl and David	Babineau
32	1/24/2007	written	Jeff	Ishikawa
33	1/24/2007	written	Leon	Yan
34	1/23/2007	written	Mike	Lum
35	1/22/2007	written	Ben	Licari
36a-c	1/29/2007	written	Kris	Lindstrom
37	1/29/2007	written	Lynn	Moncher
38	1/29/2007	written	Kandy	Pouget
39a-b	12/8/2006	oral	Jim	Martin
40	12/8/2006	oral	Archie	Ponds
41a-e	12/8/2006	oral	Steve	Shimek
42	12/8/2006	oral	Vern	Goehring
43	12/8/2006	oral	Melvin	De La Motte
44	12/8/2006	oral	John	Aliotti
45	12/8/2006	oral	Chris	Hoeflinger
46	12/8/2006	oral	Tim	Maricich
47	12/8/2006	oral	Tom	Hafer
48	12/8/2006	oral	Rob	Aliotti
49	12/8/2006	oral	Michael	Sutton
50	12/8/2006	oral	Dr. Frederick	Hollander
51	12/8/2006	oral	Darby	Neil
52	12/8/2006	oral	Steve	Crooke

Commenter	Date	Type	First Name	Last Name
53a-b	12/8/2006	oral	Douglas	Bush
54	12/8/2006	oral	Santi	Roberts
55	12/8/2006	oral	Kaitlin	Gaffney
56	12/8/2006	oral	Karen	Garrison
57a-c	12/8/2006	oral	Paul	Weakland
58	12/8/2006	oral	Harold	Davis
59	2/2/2007	written	Dorothy	Norris
60a-c	2/2/2007	written	Chuck	Davis
61a-c	1/31/2007	written	Barbara	Dwyer
62a-b	2/2/2007	written	Daniel	Davis
63a-c	1/16/2007	written	Jim	Willoughby
64	1/31/2007	written	Paul	Douglas
65a-d	1/23/2007	written	Chuck	Della Sala
66a-b	1/26/2007	written	Janice	Peters
67a-c	1/31/2007	written	Karren	Grimmer
68	2/2/2007	written	Ray	Apodaca
69	2/5/2007	written	Kale	Pastel
70	2/2/2007	written	Harriet	Mittledorf
71	1/27/2007	written	Barbara	Berg
72a-c	1/31/2007	written	Greg	Glenn
73	2/5/2007	written	Carol	Luther
74	2/2/2007	oral	Michelle	Newman
75a-c	2/2/2007	oral	Zeke	Grader
76	2/2/2007	oral	Jeremiah	O'Brien
77	2/2/2007	oral/written	Pat	Grant
78a-b	2/2/2007	oral	Don	Canestro
79	2/2/2007	oral	Bill	James
80	2/2/2007	oral	Susan	Goldbeck

Commenter	Date	Type	First Name	Last Name
81	2/2/2007	oral	Ron	Massengill
82	2/2/2007	oral	Archie	Ponds
83	2/2/2007	oral	Ben	Licari
84	2/2/2007	oral	Dan	Wolford
85a-b	2/2/2007	oral/written	Douglas	Bush
86	2/2/2007	oral	Robert	Scoles
87a-c	2/2/2007	oral/written	Richard	Charter
88a-b	2/2/2007	oral/written	Daniel	Davis
89a-b	2/2/2007	oral	Bob	Wilson
90a-c	2/2/2007	oral	Shirley	Devol
91a-c	2/2/2007	oral	Alan	Throop
92a-d	2/2/2007	oral	Sarah	Corbin
93a-b	2/2/2007	oral	Art	Seavey
94a-c	2/2/2007	oral	Marc	Shargel
95a-b	2/2/2007	oral	Berkley	White
96	2/2/2007	oral	Paul	Weakland
97a-b	2/2/2007	oral	Chuck	Tribolet
98a-c	2/2/2007	oral	John	Wolfe
99	2/2/2007	oral	Kathy	Fosmark
100a-b	2/2/2007	oral/written	Tim	Maricich
101	2/2/2007	oral	Jim	Webb
102a-d	2/2/2007	oral	Mary	Webb
103a-b	2/2/2007	oral	Chris	Harrold
104a-d	2/2/2007	oral	Barrett	Heywood
105a-b	2/2/2007	oral	Aimee	David
106	2/2/2007	oral	Corey	Peet
107	2/2/2007	oral	John	Fischer
108	2/2/2007	oral	Peter	Griffin

Commenter	Date	Type	First Name	Last Name
109a-c	2/2/2007	oral	Samantha	Murray
110	2/2/2007	oral	Brian	Williamson
111	2/2/2007	oral	Gordon	Hensley
112a-b	2/2/2007	oral	Holly	Price
113	2/2/2007	oral	Laura	Kasa
114	2/2/2007	oral	Giovanni	Nevoloso
115	2/2/2007	oral	Howard	Egan
116	2/2/2007	oral	John	Pearce
117a-b	2/2/2007	oral	Steve	Scheiblaue
118	2/2/2007	oral	Michele	Leary
119a-b	2/2/2007	oral	Lee	Willoughby
120	2/2/2007	oral	Tom	Hafer
121a-d	2/2/2007	oral	Steve	Shimek
122	2/2/2007	oral	Vern	Goehring
123a-b	2/2/2007	oral	Ray	Fields
124	2/2/2007	oral	Tim	Eichenberg
125a-b	2/2/2007	oral	Jim	Martin
126	2/2/2007	oral	Kate	Wing
127	2/2/2007	oral	Ximena	Waissbluth
128	2/2/2007	oral/written	David	Crabbe
129a-b	2/14/2007	written	Kathy	Fosmark
130	1/29/2007	written	James and Marcia	Smullen
131a-c	2/12/2007	written	Michael	Golightly
132	2/9/2007	written	William	Matthes
133	2/12/2007	written	Mary	Greas
134	2/12/2007	written	Evelyn	Chau
135	2/19/2007	written	John	O'Connor
136	2/11/2007	written	Raj	Shah

Commenter	Date	Type	First Name	Last Name
137	2/23/2007	written	Katie	Horwitch
138	2/11/2007	written	Taylor	Coudray
139	2/16/2007	written	Elena	Maroth
140	2/6/2007	written	Sarah	Lady
141	2/12/2007	written	Janling	Liu
142	2/10/2007	written	Dominic	Dang
143	2/9/2007	written	Seton	Chiang
144	2/12/2007	written	Sevag	Kalinjian
145	2/12/2007	written	RJ	Lingelser
146	3/2/2007	oral	Tom	Raftican
147	3/2/2007	oral/written	Diane	Beck
148a-b	3/2/2007	oral	Dennis	Mayo
149	3/2/2007	oral	Sue	Leskiw
150	3/2/2007	oral	Mel	McKinney
151	3/2/2007	oral	Lydia	Evers
152a-b	3/2/2007	oral/written	Tim	Maricich
153	3/2/2007	oral	Brandi (presented by proxy)	Easter
154a-d	3/2/2007	oral	Vivian	Helliwelll
155	3/2/2007	oral	Katherin	Schmidt
156a-b	3/2/2007	oral	Russel	Miller
157a-c	3/2/2007	oral	Skip	McMaster
158	3/2/2007	oral	Archie	Ponds
159	3/2/2007	oral/written	Bill	James
160a-c	3/2/2007	oral	David	Bitts
161a-b	3/2/2007	oral	Jim	Martin
162a-c	3/2/2007	oral/written	Mike	Zamboni
163	3/2/2007	oral	Ed	Salsedo
164	3/2/2007	oral	Steve	Shimek

Commenter	Date	Type	First Name	Last Name
165	3/2/2007	oral	Douglas	Bush
166a-b	3/2/2007	oral	Tom	Hafer
167a-b	3/2/2007	oral	Samantha	Murray
168	3/2/2007	oral/written	Brandi	Easter
169	3/2/2007	oral	Roger	Anderson
170a-b	3/2/2007	oral	Rick	Algert
171a-c	3/2/2007	oral	Michele	Leary
172	3/2/2007	oral	Stan	Trapp
173a-b	3/2/2007	oral	Chanel	Channing
174a-b	3/2/2007	oral	Dennis	Mayo
175	3/2/2007	oral/written	Gene	Owens
176	3/2/2007	oral	Charlie	Notthoff
177	3/2/2007	oral	Aaron	Newman
178	3/2/2007	oral	Kirk	Yunker
179	2/1/2007	written	Danielle	None Given
180a-b	2/21/2007	written	Dick	DeWees
181a-b	2/26/2007	written	Frances	Williams et al.
182	2/7/2007	written	Gina	Dalera
183	2/12/2007	written	Vincent	Armenta
184a-d	11/19/2006	written	Tom	Hafer
185	2/2/2007	written	Ed	Biaggini
186a-d	1/24/2007 and 2/2/2007	written	Tom	Hafer
187	2/2/2007	written	Dave	Zaches
188a	3/1/2007	written	Philip	Tacata
188b	3/1/2007	written	Adva	Mestrich
188c	3/1/2007	written	Amy	None Given
188d	3/1/2007	written	Lisa	Smith
188e	3/1/2007	written	The Brace Family	

Commenter	Date	Type	First Name	Last Name
188f	3/1/2007	written	Adam	Carrera
188g	3/1/2007	written	Brian	Paedy
188h	3/1/2007	written	Deborah	Seiler
188i	3/1/2007	written	Valerie	Dallacqua
188j	3/1/2007	written	Janice	Maguich
188k	3/1/2007	written	Cheri	Brannum
188l	3/1/2007	written	Linda	Boston
188m	3/1/2007	written	Jose	Perez
188n	3/1/2007	written	The Ormie Family	
188o	3/1/2007	written	Deborah	Metry
188p	3/1/2007	written	Rebecca	Young
188q	3/1/2007	written	Julie	Nielson
188r	3/1/2007	written	Denise	Yee
188s	3/1/2007	written	Kelly	Taylor
188t	3/1/2007	written	Christine	Salino
188u	3/1/2007	written	Julie	Waters
189	9/8/2006	written	Jay	Blackmon
190	9/8/2006	written	Mike	Stroub
191	1/25/2007	written	John	Tyler
192	1/14/2007	written	Bill	Richmond
193	1/10/2007	written	Marion	Knight
194	1/20/2007	written	John	Ingle
195	12/12/2006	written	Lyndon	Schultz
196	1/22/2007	written	David	Bacon
197	1/22/2007	written	Lorenzo	Rota
198	1/29/2007	written	Gene	Webb
199	12/5/06	written	Bill	Richmond
200	12/5/06	written	Jeff	Crowell

Commenter	Date	Type	First Name	Last Name
201	12/6/06	written	Pierre	Felid
202a-b	12/7/07	written	Leroy	Robinson
203	1/29/07	written	Kandy	Pouget
204	1/29/07	written	Nanette	Tufts
205	1/29/07	written	Ross	Levine
206	1/29/07	written	Janet and Mark	Thew
207	1/29/07	written	Ashley	Cook
208	1/29/07	written	Pat	Luiz
209	1/29/07	written	Angela	Bates
210	1/29/07	written	Keith	Porter
211	1/29/07	written	Harry	Squires
212	1/29/07	written	Gina	Blus
213	1/29/07	written	Marilyn	Stanclift
214	1/29/07	written	Lori	Paul
215	1/29/07	written	Barbara	Diederichs
216	1/29/07	written	Kandy	Pouget
217	1/29/07	written	Katharine	Newman
218	1/29/07	written	Esther	Rodriguez
219	1/30/07	written	Sara	Huynh
220	2/11/07	written	Taylor	Zimmerman
221	2/15/07	written	Jennifer	Burk
222	2/16/07	written	Ari	Warren
223	2/20/07	written	Heather and Mike	Young
224	2/21/07	written	Rev.Stephen	Glauz-Todrank
225	2/24/07	written	James	Kell
226	2/26/07	written	Bob	Kimsey
227	2/27/07	written	Dawne	Schulte
228	3/4/07	written	Linda	Quartararo

Commenter	Date	Type	First Name	Last Name
229	3/5/07	written	Ray	Cloud
230	9/11/2006	written	Kiran	Nair
231	9/20/2006	written	Gloria Jeneal	Eddie
232	9/20/2006	written	Sylvia	Gregory
233	10/6/2006	written	Wendy	Dreskin
234	10/8/2006	written	Bruce	Allen
235	10/9/2006	written	Cheryl	Lingvall
236	10/13/2006	written	Anthony	Casolino
237	11/28/2006	written	Karen	Wallace

Table 13. Summary of comments and responses from the Pre-Adoption Statement of Reasons.

Commenter	Comment	Comment Summary	Response
2,3,5,11,30,34,37,38,41 a,49,55,87a,92a,128,13 3,134,136,138,141,142, 144, 147,182,188a-u, 191,194,195,198,203,2 04,205,207,209,210,21 1,212,213,215,216,218, 219,220,221,222,223,2 24,225,226	1	Supports preferred alternative	Comment noted.
36c,56,67a,68,70,71,87 c,92d,102a,105a,106,1 07,109a,111,112a,113, 116,121a,135,137,139, 140,143,145,149,164,1 87,193,214,217,227	2	Supports original Aug 15 2006 preferred alternative	Comment noted.
14,189,190	3	Supports alternative 1	Comment noted.
130, 179,180b, 230, 231, 232, 234, 235, 236, 237	4	Supports package 2R	Comment noted.
20,174a,197	5	Does not support any alternatives, process scientifically flawed	See Master Response 2.
42,54,59,64,73,127,131 b,172,206,208,228	6	General support for resource conservation	Comment noted.
13c,35,60b,61c,62b,83, 88b,90c,91c,94c,98c,10 4d	7	Ban fishing contests in MPAs	During the development of alternative packages in 2006, the BRTF asked the Department to look into spearfishing contests. The Department found that proposed restrictions on spearfishing contests were unwarranted. Divers using spears are subject to the same bag and size limits as hook and line anglers. Spearfishing contests generally occur no more than once a year in any given location and are monitored by Department biologists. Most species harvested in these contests over the past several decades have shown no changes in average length, number of fish caught or fishing effort. These statements apply to general fishing contests as well. In addition, fishing contests often impose their own restrictions which are more stringent than general recreational fishing regulations.
25	8	Ban spearfishing in SMCAs	SMCAs are not "no-take" reserves and allow for commercial and recreational harvest of certain marine resources. The objectives of individual SMCAs will direct the allowance or prohibition of spearfishing in that respective SMCA.

Commenter	Comment	Comment Summary	Response
65a,92b,117a,131a	9	Supports sub-option 1: recreational fishing allowed at Ed Ricketts at all times.	The Department agrees.
22,95a	10	Do not allow fishing at Ed Ricketts any time due to potential impacts to living resources and/or conflicts between divers and anglers.	Recreational fishing should continue to be allowed from the breakwater, which is by definition a public fishing pier, and also provides one of the few wheel chair access points for fishing in the central coast. The outer one third of the breakwater is already closed to fishing in order to protect a sea lion haul out area, but is accessible to the dive community from the water. The Department agrees with the City of Monterey that recreational fishing with hook and line from small boats is a legitimate traditional use.
13b,90a,94a,98a,104b	11	Supports preferred alternative option 2 for Ed Ricketts (fishing is allowed in Ed Ricketts any time except weekend fishing is not allowed at the Monterey breakwater) primarily due to conflicts between divers and anglers.	See response to comment 10. The Department believes that the stated conflict/hazard of divers being hooked by breakwater anglers is not one that should be addressed by the MLPA process. Additionally, the City of Monterey has posted signs in the area to warn both divers and anglers of the potential hazard.
23,41c,60c,61a,91a,97a	12	Supports preferred alternative option 2a for Ed Ricketts (fishing is allowed at the Monterey breakwater on weekdays only but disabled persons allowed any time)	See response to comment 10 and 11. An option to allow disabled anglers to fish on the Edward Ricketts breakwater at all times may be considered discriminatory against certain user groups from being allowed to fish in the area. Limiting recreational fishing at the breakwater to disabled fishermen only does not eliminate take thus ecological benefits would be negated. Further, the possibility of anglers hooking divers would still exist.
100b	13	Wants compensation for spot prawn fishermen and a reduction of permits to balance the closures.	There is no duty to mitigate for adverse socioeconomic impacts under the MLPA. See Master Response 3.
75c,129b	14	Open Dungeness crab fishing at Soquel Canyon and Portuguese Ledge; it is a low impact fishery	Comment noted. Concerns over potential impacts to the Dungeness crab fishery were not noted in the alternative development process for this MPA. Data collected during the process estimate that the Commission's preferred alternative would impact less than 7% of all Dungeness crab fishing grounds and less than 14% of fishing grounds within the study region. The proposed Soquel Canyon and Portuguese Ledge MPAs would potentially impact an estimated 1.3% and 0.5% of Dungeness crab fishing grounds. Also, see response to comment 21.
12a,109b	15	Advocates elimination of spot prawn fishing due to marine mammal entanglements in gear	The Department recognizes that marine mammal entanglements can occur with spot prawn gear. However, documented cases are <i>extremely rare</i> . To date, only one marine mammal entanglement has been attributed specifically to spot prawn trap gear and is considered an isolated incident. This incident did not occur within one of the proposed MPAs. In this particular instance, the gear configuration was changed, with no subsequent reported entanglements.

Commenter	Comment	Comment Summary	Response
1,10	16	Do not limit non-consumptive activities in MPAs, in particular at the Vandenberg SMR.	Access for non-consumptive activities like surfing, swimming and non-consumptive diving are generally allowed in MPAs (14 C.C.R. Section 632(a)(3)). The pertinent subsection with regards to the proposed Vandenberg SMR is 632(b)(55)(B)
7a,8b	17	Why are regulation changes proposed for areas outside the central coast?	As described in the ISOR, typographical and consistency changes are proposed to MPA regulations within Section 632 (the noticed section) throughout California. The ISOR does not state that it is specific to only Central California. These changes do not change the level of protection or restrictions in any MPA.
27,31a,31b	18	Allow spearfishing or poke pole fishing at Ed Ricketts SMCA and other MPAs	While in general there is no evidence that spearfishing has a greater impact than other types of take, the Commission is proposing to prohibit spearfishing within the Ed Ricketts SMCA to be consistent with the stated views of the City and to be able to compare the MPA to an area where spearfishing is allowed (at Pacific Grove).
32,33,69,125b,161b,166a,180a,202b	19	Provide exemption for shore-based recreational anglers in certain MPAs, specifically Point Buchon and Piedras Blancas	The primary goal of the MLPA is not solely fisheries management. Rather, the MLPA seeks to represent and replicate a variety of habitats, protect diversity, abundance, and integrity of ecosystems and maintain marine life populations within a network of scientifically designed protected areas. Exemption to one user group contradicts the goals and/or objectives of the MLPA and individual MPAs. In addition, Point Buchon and Point Piedras Blancas areas are recommended as SMRs (no-take) by the SAT, and are considered important to the formation of an ecologically sound MPA network due to the high diversity of species and habitats, and due to their location in relation to other MPAs. See Master Responses 1 and 5.

Commenter	Comment	Comment Summary	Response
16,39a,44,51,76,79,82,108,115,125a,154b,157b,162b	20	Alternative will displace fishermen and increase effort either on sensitive species, particularly canary rockfish, or in non-MPA areas	<p>The Department disagrees. The department's analysis of fishing effort shows that most fishing effort is outside MPAs suggesting prime fishing grounds lay outside the MPAs. The EIR concluded that a concentration of fishing effort would have a less than significant impact on marine species and habitats.</p> <p>With respects to canary rockfish; the potential for increased bycatch of Canary rockfish resulting from displacement of fisherman is speculative, and the commenter does not provide any evidence to substantiate such a claim. There is no evidence that shows effort shifts will have a negative impact or increase catch of canary rockfish. A review of canary rockfish "hotspot" fishing data indicates that most locations for this species are north of and outside the Proposed Project area. Furthermore, many of the remaining hotspot locations found inside the Proposed Project area reside within the boundaries of the proposed MPAs or in areas that already have a high level of fishing pressure.</p> <p>Regarding the Vandenberg SMR; the Commission preferred boundaries and the sub-option for reducing the size of the Vandenberg SMR, provide for complete protection of a diverse area containing shallow hard and soft habitats, kelp beds, and associated fish and invertebrate, while benefiting from protection provided by an existing state marine reserve and restrictions on vessel traffic, including fishing vessels, due to the presence of Vandenberg Air Force Base. This area is important to the formation of an ecologically sound MPA network component, by linking these habitats to similar habitats in other parts of the region. See also Master Response 2.</p>
45,48,75a,100a,129a,152b	21	The spot prawn fishery is low impact and should be allowed	<p>The Department recognizes that the spot prawn fishery is considered a relatively low-impact fishery, but . The Commission has included allowing the take of spot prawn in both the Soquel Canyon and Portuguese Ledge SMCAs as an option to be considered for both areas. The Commission will decide to allow commercial harvest of spot prawns at both, one, or neither of these SMCAs in line with goals outlined in the MLPA and Master Plan</p>
7b,8a,9,39b,202a	22	The use of scientific names causes confusion	<p>The proposed regulations use both common and scientific names to reduce confusion where necessary. This has only been done for MPAs in the central coast region. Scientific names previously suggest for addition in areas outside the central coast have been removed.</p>

Commenter	Comment	Comment Summary	Response
97b,160b	23	Regulations need to allow transit through and anchoring in MPAs with fish and gear onboard	Existing regulations at subsection 14 C.C.R. Section 632(a)8 allows vessels to transit through MPAs and marine managed areas with catch onboard. Fishing gear shall be stowed and not in use while transiting through a SMR. The proposed regulation would not change this.
46,50,65b,66b,99,114,154a,156b,169,173a	24	The socioeconomic impacts have not been fully considered and economic damage will occur	The economic analysis did not show, nor did the commenter provide evidence of significant long term socioeconomic impact to the Central Coast Region with the implementation of the preferred package. See Master Response 3.
15,63a,72a,119b,181b,186a	25	Suggestions or stakeholders were not considered in process	The proposed project is the result of a long constituent involvement process that included many opportunities for public input at a variety of public meetings held in the study region and along the coast. This project has also involved the work of a comprehensive stakeholder involvement process, considering a wide variety of public concerns.
19,63b,80,104a,119a,181a	26	Suggests that the MPAs in the Pacific Grove area be increased in size rather than have segments cut out	Consistent with the goals and objectives of the MLPA, the Commission's preferred alternative increases overall protection throughout the entire Pacific Grove area. Under the proposed preferred alternative Some areas, such as Lovers Point SMR and Asilomar SMR will be no-take reserves while in adjoining SMCAs only the take of finfish and commercial take of kelp will be allowed. Presently the area allows recreational take of finfish and invertebrates other than mollusks or crustaceans as well as the commercial take of kelp, squid and certain finfish species. See also Master Response 4.
40,43,65c,110,118,166b,184b,186b	27	The areas closed to fishing are prime fishing grounds	The department's analysis of fishing effort indicated that most fishing effort is outside MPAs suggesting prime fishing grounds are outside the MPAs. The commenter has not provided sufficient data to quantify prime habitat or identify its location. Therefore, these comments are presumptuous. The Commission's preferred boundaries provide for complete protection of diverse areas containing shallow hard and soft habitats, kelp beds, and associated fish and invertebrates.
63c	28	Private donations influenced decisions and the process was inappropriately implemented	No private donations were received in this process. The Fish and Game Commission is an independent decision making body in this process was neither a party to the MOU nor a recipient of private funds. See See Master Response 6.

Commenter	Comment	Comment Summary	Response
75b,96,162c	29	MPAs only address fishing and do not adequately address other environmental issues	MPAs are an ecosystem-based approach to protecting the natural diversity and abundance of species within those areas. While the primary change in regulations is to prohibit or limit fishing within MPAs, their basis is actually in protecting habitats and all species, not just those targeted by fishing. The MLPA contemplates the review of existing MPAs and improvement of their function and design. This process implements the law which was enacted when the MLPA was signed. Along with restricting fishing efforts in these areas, MPAs also restrict certain non-consumptive uses which may have an adverse impact on the ecosystem in those areas. Other environmental issues are addressed by other statutes and agencies responsible for regulating adverse non-fishing impacts upon the ocean resources.
58,126	30	FMPs, MPAs, and other fishery regulations should work together to strengthen fishery management	See Master Response 5.
52	31	General MPA process support	Comment noted.
12b,41b	32	Tighter restrictions including gear restrictions are necessary at Soquel Canyon and Portuguese Ledge	The Commission's preferred alternative as a whole meets the goals and objectives of the MLPA and scientific guidelines developed during the process. The MLPA contemplates adaptive management and changes in take designations will be made in the future, if deemed necessary.
13a,24,28,57b,60a,61b,62a,74,88a,90b,91b,94b,95b,104c	33	The proposed kelp harvest limits are not restrictive enough	The intent of the Commission in accordance with the MLPA, is to preserve kelp habitat within Edward Ricketts SMCA while allowing the sustainable take of kelp to provide for its commercial user's. The proposed harvest limits are intended to be conservative enough to prevent overharvest, while providing for kelp reliant businesses (e.g abalone farmers). Presently total take and method of take are not limited, thus the Commission's proposed kelp harvest limits are more conservative than existing restrictions. Additionally, while isolated incidents of high level harvest have occurred, this resilient kelp bed has not been subject to permanent damage.

Commenter	Comment	Comment Summary	Response
12c,17,36c,41e,67b,89a,150	34	Recommends increasing restrictions on take of forage species	The Department feels that allowing the take of forage fish in Greyhound Rock, Soquel Canyon, and Portuguese Ledge SMCAs would not result in a significant depletion of forage fish in those areas. MPAs provide many pelagic species with limited benefits due to their migratory nature. These pelagic species are less likely to benefit directly from individual MPAs unless the size of the MPA encompasses their range of movement, or the MPA is located to protect critical life stages (i.e. spawning or feeding aggregations, nursery grounds). In addition, MPAs do not reduce the catchability of pelagic species for the same reasons that they provide limited benefits. Finally, the proposed regulation does not increase existing levels of take for these species.
21	35	Doesn't support eliminating the Julia Pfeiffer Burns SMCA, and does not feel Point Sur, Big Creek MPAs are adequate. Opposes removal of the name "Julia Pfeiffer Burns."	The existing Julia Pfeiffer Burns State Marine Conservation Area does not adequately protect some populations of invertebrates and finfish. It is not presently a marine reserve thus the take of finfish and several invertebrate species is allowed. The MLPA contemplates adaptive management and an improved marine reserve component. This contemplates the evaluation of existing MPAs and the possible abolishment of some MPAs that do not meet regional goals or the goals of the MLPA. The Point Sur and Big Creek SMRs will strengthen the regional marine reserve component and provide greater protections for all species. See Master Response 1.
26,72b,77,84,101,120,148b,185,201	36	The alternatives burden fishermen, limit opportunity, or jeopardize safety	See Master Response 3.0. Safety is not jeopardized as transit through the proposed MPAs is allowed as well as anchoring with catch onboard. The Department's economic analysis did not show a significant permanent impact. However, the preferred alternative proposes moving the northern boundary of the proposed Vandenberg SMR to south of Purisima Point to limit the impact to existing uses (e.g. nearshore fisheries) in that vicinity. In addition, at its March 2nd, 2006 meeting the Commission proposed sub-options to further reduce the size of the Pt. Sur, Pt. Buchon, and Vandenberg MPAs. These changes are intended to reduce the impact and hardships to fishermen and economies while maintaining the biological integrity of the proposed MPA network. See also response to comment 40.

Commenter	Comment	Comment Summary	Response
41d	37	Local fishing support the Pico Creek and Lampton Cliffs park (a merge of the two sub-options)	Commission preferred package SMR boundaries provide for a high level of protection of a diverse area containing shallow hard and soft habitats, kelp beds, pinnacles, and associated fish and invertebrate species adjacent to an existing land based preserve and research facility. The proposed boundaries were developed to both allow existing activities and use easily recognizable and enforceable boundary locations. The commission preferred SMR will enhance recreational fishing near a population center (Cambria) by prohibiting commercial take in an area traditionally accessed primarily by recreational users. The SMR will also replicate habitats found in adjacent Cambria State Marine Reserve to allow comparison of an area which allows recreational fishing only with an area in which all take is prohibited.
53a,78a,85a,93a,102d,117b,123a,165	38	Allow kelp harvest	Comment noted
29,122,132,162a,174b	39	A specific fishery is healthy why limit take?	The goals of the MLPA do not include the management of individual fisheries, but include the protection of the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems. While certain fish stocks may be healthy, the MLPA still contemplates that habitats and ecosystems be protected through the designation of MPAs. State marine reserves provide complete ecosystem protection as well as protection to specific fisheries through a no-take designation. State marine conservation areas are established such that certain take may be allowed according to the objectives of the MPA. See also Master Response 5.

Commenter	Comment	Comment Summary	Response
81,102b,173b,184a	40	Proposes various boundary changes and/or removal of Cambria MPAs	<p>The MLPA contemplates that MPAs be designed in part to provide for protection of replicate habitats such as, shallow hard and soft habitats, kelp beds, pinnacles, and associated fish and invertebrate species. MPA spacing and boundaries are based on guidelines provided by the SAT which consider such factors as fishing effort, distance from ports, habitat, and numerous other factors. The boundaries presented in the Commission's preferred alternative area reflection of those guidelines and factors.</p> <p>Several sub-options exist for Cambria that addresses designation as a SMR or SMCA and boundary options. The proximity of an existing land based preserve and research facility to the placement of the Cambria SMR or SMCA will provide an area for replicate habitats and may provide varying levels of protections for comparison between an area which allows recreational fishing only with an area in which all take is prohibited. The commission preferred alternative aims to enhance recreational fishing near a population center (Cambria) by prohibiting commercial take in an area traditionally accessed by recreational users.</p>
4	41	California already has enough MPAs	The MLPA contemplates that the state review and improve upon the existing system of MPAs. Many areas will still be left open for fishing. See also Master Responses 1 and 4.
86,103a	42	Supports original Aug 15 2006 preferred alternative. Weakening the August 15th alternative will degrade the ecological communities or reduce the forage base.	Comment noted. Commenter does not provide evidence of significant ecological impacts nor does the comment show evidence of depleting the forage base or available habitat.
124	43	Supports original Aug 15 2006 preferred alternative. Allowing spot prawn fishing would reduce area covered by SMRs in the central coast.	Under the preferred alternative, both Soquel Canyon and Portuguese Ledge are listed as State Marine Conservation Areas not State Marine Reserve's. So, reductions in the amount of State Marine Reserves in the Central Coast Region would not occur if spot prawn fishing were allowed in these areas.
112b, 67b	44	Recommends increasing restrictions on take of forage species for research opportunity	The Department supports the preferred alternative which allows the take of pelagic forage species, such as sardines and anchovy, in both Portuguese Ledge and Soquel Canyon. The preferred alternative currently provides a large number of MPAs that prohibit the take of forage species, such as sardines and anchovy, allowing ample opportunities to study trophic structure and food web interactions.

Commenter	Comment	Comment Summary	Response
47	45	Does not support preferred alternative. There is already an MPA with similar habitat.	Under the goals and objectives set forth in the MPA Master Plan, replicate habitats should be included in each region. Therefore, there may need to be more than one MPA in a region with similar habitat. See Master Response 4.
72c,163,171a	46	Does not support preferred alternative. The MPA exceeds recommendations of the SAT or the scope of the MLPA, in particular near Cambria.	See Master Responses 1 and 4. With reference to the Cambria SMR, the SAT analyzed alternatives that also did not include the Cambria SMR and found it was necessary for kelp connectivity. Without the Cambria SMR there would be a gap in kelp habitats. The Commission's preferred alternative boundaries provide for a high level of protection of a diverse area containing shallow hard and soft habitats, kelp beds, pinnacles, and associated fish and invertebrate species adjacent to an existing land based preserve and research facility. The Commission's preferred Cambria SMR will enhance recreational fishing near a population center (Cambria) by prohibiting commercial take in an area traditionally accessed primarily by recreational users.
57c	47	Urchin are a pest and a nuisance, if you close the area to urchin harvest you will have urchin barrens. You must remove urchins to maintain a healthy environment.	A goal of the MLPA contemplates the protection of the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems. Urchins are a natural component of the ecosystem and are thus afforded protection to preserve the integrity and natural predator prey relationships of the ecosystem. In existing MPAs in California urchin barrens have been less common than non-MPA areas nearby.
89b,98b,121c,167a	48	Do not change the status of an SMR to SMCA to allow kelp harvest	See response to comment 33 for kelp harvest rates. The Año Nuevo and Cambria areas have existing kelp leases still under contract. As a business agreement, legal measures would apply to abolishing current contracts with those lease holders. The commercial take of kelp has existed in these areas and there have been no adverse environmental impacts from these kelp leases prior to MLPA proposals. With the adoption of the preferred alternative, restrictions would be implemented that limit the take of kelp to hand harvest only, to further prevent adverse ecological impacts, and the maximum that kelp harvesters may take from those areas.
103b	49	Kelp thinning has major ecological impacts on trophic structure and ecosystem function	Current kelp harvest practices have not been found to have adverse ecological impacts. The MLPA contemplates adaptive management and changes in take designations may be made as warranted.

Commenter	Comment	Comment Summary	Response
18	50	How is recreation enhanced by no-take MPAs?	No-take MPAs (state marine reserves) protect a diversity of marine life, various life stages (such as large reproductive individuals), and a diversity of habitat. No-take marine reserves will help rebuild depleted stocks and/or ecosystem function. Protection of these components to the ecosystem provides opportunity for research, education and non-consumptive recreational activities such as wildlife viewing.
57a	51	Concerned with Pigeon Pt. to Waddell creek. The area has been closed for 10 years for abalone. Poaching has proliferated in the area due to the high numbers of abalone. The honest fisherman will be punished; it will become a poacher's paradise.	No evidence has been provided that poaching has increased or will increase. Two options are proposed for Año Nuevo, one is a SMR and the other is SMCA. Under both options the take of all living marine resources (except giant kelp <i>Macrocystis pyrifera</i>) is prohibited. This makes enforcement much easier as there is no need to differentiate between the take of an allowed organism and a prohibited organism. The commercial take of giant kelp is easily distinguished.
146	52	Suggests changing areas to maintain conservation measures but increase angler safety/opportunity.	In an effort to reduce burden and impact to the fishing community and economies while maintaining biological integrity new sub-options under the preferred alternative have been proposed to move the Point Sur SMR and SMCA southern boundaries northward to 36 degrees 15.6 minutes; Point Buchon SMR and SMCA north boundaries southward to 35 degrees 14.8 minutes and the south boundaries northward to 35 degrees 11.5 minutes; Vandenberg SMR north boundary southward to 34 degrees 44.3 minutes. See also response to comment 40.
151	53	Supports MPAs and suggests an increase in the % of "no-take" reserves	The preferred alternative provides a percentage of "no-take" reserves well within the range recommended to the Commission by the SAT.
148a,178	54	Does not support MPAs or the MLPA process.	Comment noted, see Master Response 1.
65d,152a	55	Ecotrust economic data is wrong	EcoTrust was contracted to perform an analysis of areas of greatest value to commercial fishing. This analysis was not, nor was it intended to be an analysis of economic impacts. As mandated by the MLPA the final analysis from EcoTrust was based on the best available science and was peer reviewed. See also Master Responses 2 and 3.
154d,177	56	Existing fisheries management measures have not had enough time to work - wait until those show results	See Master Response 5.
154c,156a,160a	57	Enforcement needs clearly defined boundaries	The Department agrees. Great care has been taken to place boundary lines along straight lines that follow latitude/longitude whenever possible. MPA boundaries were also delineated in regards to easily recognizable landmarks or shoreline features when feasible. These issues will be further mitigated with increased enforcement levels and the use of new technology.

Commenter	Comment	Comment Summary	Response
160c	58	MPAs in state waters do not protect fish in federal or international waters	As a state law the MLPA is limited in scope to the management of California waters. However, the MLPA does also work in conjunction with federal regulations to provide for the conservation of biological diversity, the overall health of marine ecosystems, the recovery of wildlife populations, and habitat protection. While the Department acknowledges that migratory species will move freely between state and federal waters and will not necessarily derive the same level of benefits from MPAs that more stationary species do, the Department's jurisdiction only extends three miles out and therefore limits the ability to place MPAs in federal or international waters.
161a,170a,171c	59	Increase the rockfish bag limit	The MLPA and the MPA network are not designed to alter bag limits. See also responses to comments 30 and 39 and Master Response 5.
167b	60	Supports elimination of spot prawn fishing to preserve a natural balance	Comment noted. Also, see responses top comments 34 and 44.
170b,171b	61	Consider the mayor of Morro Bay's letter	See responses to comments 24 and 40.
175	62	Provided information on how to initiate a lawsuit against the process	Comment noted
176	63	Need local input. The resources are not the same in northern California as they are in southern California	The Department agrees, and as part of the MLPA process is required to take into account relevant information from local communities as well as to solicit comments and advice from interested parties. This is accomplished through the formation of Regional Stakeholder Groups, which are comprised of individual study region residents who are willing and able to represent affected members of the study region. Regional Stakeholder Groups are included throughout the MLPA process and in fact assist in with the development of Proposed Alternatives. Also see response 25
157a	64	Have studies been conducted to show MPAs work in other areas?	A broad array of peer-reviewed literature has been published on MPAs throughout the world. A variety of literature on the subject can be found on the MLPA website at http://www.dfg.ca.gov/mrd/mlpa/index.html as well in the Master Plan.
157c	65	Maybe we should recover lost gillnets.	Comment noted. This activity is outside the scope of the proposed regulations.
158	66	Moving the boundaries of specific MPAs will keep local economies alive and prevent the need to purchase seafood from overseas	The commenter does not provide evidence that moving certain proposed MPA boundaries will have the effect described. Also, see response to comment 40.
168	67	Supports spearfishing in MPAs. Data indicates fishery is healthy and spearfishing supports DFG data collection.	The Department agrees and appreciates the cooperation of spear fishermen in data collection efforts. Also, see responses to comments 18 and 39.

Commenter	Comment	Comment Summary	Response
53b,85b,93b,123b	68	Commenters urge the Commission honor kelp bed leases	An MPA with a SMCA status would allow for the sustainable harvest of kelp in those areas, honoring existing kelp bed leases. Regulations for kelp harvesting within SMCAs would apply to those leased kelp beds, limiting take to hand harvest only. Included in the ISOR document of proposed changes to the Commission's preferred alternative is a sub-option allowing for the commercial take of kelp to continue in those areas where leased kelp beds overlap MPAs.
78b	69	Allow kelp harvest but do not downgrade SMR status to honor kelp leases	Comment noted
102c,131c	70	Regulate kelp harvest guidelines for each individual area.	Kelp harvest guidelines for each marine reserve are provided for those MPAs where commercial kelp harvest is proposed. The proposed regulations limit the take of kelp within Edward Ricketts SMCA to 12 tons per harvester per month and within Pacific Grove Marine Gardens SMCA to 44 tons per month per harvester. The maximum allowable limits of kelp harvested within leased kelp beds are included in the lease agreement; however, regulations limiting the take of kelp to hand harvest only will be implemented upon adoption of the proposed regulatory package as it limits the ecological impacts to kelp habitat areas.
159	71	Commenter suggests moving the Purisima Point northern boundary because the preferred alternative envelopes prime fishing grounds and would impact local fish producers/markets and recreational sport fishing vessels.	A new sub-option in the preferred alternative has been proposed to move the north boundary of Purisima Point SMR southward to 34 degrees 44.3 minutes north. See also responses to comments 40, 66, 36, 27 and Master Response 3.
183	72	Preferred alternative does not recognize aboriginal fishing rights in closures at Vandenberg SMR	It is not the intent of the MLPA to restrict aboriginal fishing rights in areas designated as marine reserves. The Department has afforded the San Ynez Band of Chumash Indians the opportunities to participate in the stakeholder process through numerous public hearings and public comment periods along with other stakeholder groups. Within the DEIR aboriginal fishing rights were considered as part of the larger analysis related to effects of the MLPA process on fishing. Many areas would remain open to fishing with little impact to tribal fisherman.
184c	73	Rockfish populations are not depleted in waters near Morro Bay, there is insufficient data to support MPAs, and the current management practices are sufficient	See responses to comments 30, 39, and 59, and Master Responses 2 and 5.
184d	74	Petition to stop excessive regulation of fishermen (98 signatures included; commenter indicates these were new additions totaling approximately 1,200 that were obtained prior to the notice period))	Comment noted

Commenter	Comment	Comment Summary	Response
186c	75	Letter addresses such issues as elimination of prime fishing grounds, lack of stakeholder involvement/use of input, displacement of fishing effort, flawed science and socioeconomic analysis, unclear/faulty MPA objectives, limits of enforcement and funding, lack of consideration to the sport fishing fleet	See responses to comments 20, 24, 25, 27, and 46 as well as Master Responses 1, 2, and 3
186d	76	The monitoring plan is insufficient to provide necessary data	The MLPA explicitly provides for adaptive management. The Master Plan and the Monitoring Plan are intended to evolve as new data and information come available and as lessons are learned from the process. The monitoring plan is written to build on existing monitoring programs to maximize effort and the information gained. Additionally, the monitoring plan allows for new approaches to be developed to gather required data.
87b, 92c, 36b, 121b, 109c	77	Supports Option 1 for Soquel Canyon and Portuguese Ledge SMCAs	Comment noted.
121d, 105b	78	Supports Option 3 for Ed Ricketts SMCA	See response to comment 9
153	79	Wanted to speak to the spear fishing aspects and dispel inaccuracies	Comment noted
192,199	80	Does not support the preferred alternative/fisherman traveling farther will increase state pollution	The potential impact of increased emissions from vessel traffic on air quality is discussed in Section 5 of the California Environmental Quality Act EIR. The EIR makes conservative assumptions regarding the extent of additional vessel transit, as well as using very conservative significance thresholds, resulting in a conclusion of a significant and unavoidable impact. It is likely that this conclusion is an overestimate. It is impossible to determine whether vessels will travel further to fish in areas beyond an MPA or, conversely, whether they will travel less far and fish nearer to port, reducing emissions.
200	81	Expresses specific concern over quantity of plastic in the ocean and urges for the strongest alternative	Comment noted. See also response to comment 29.
229	82	Supports the March 2, 2007 sub-options for boundary changes 5 MPAs	Comment noted.
196	83	Submitted article on artificial reefs	Comment noted.
155		Look for written comment	No response. Written comment has not been received.

Table 14. Summaries of form letters received in support of the Commission's preferred alternative for MPAs in the central coast and were included in the Pre-adoption Statement of Reasons. Items shown in bold type are corrections to these tables based on the final recount of these letters.

Date Received	Form Letter A Number of comments Received		Date Received	Form Letter B Number of comments Received		Date Received	Form Letter C Number of comments Received
11/29/2006	1		1/22/2007	818		1/29/2007	676
12/4/2006	419		1/23/2007	155		1/30/2007	160
12/5/2006	128		1/24/2007	138		1/31/2007	58
12/6/2006	46		1/25/2007	46		2/1/2007	12
12/7/2006	590		1/26/2007	20		2/2/2007	1
12/8/2006	227		2/27/2007	2		2/5/2007	16
12/9/2006	98		2/28/2007	1		2/6/2007	2
12/10/2006	69		3/1/2007	3		2/7/2007	1
12/11/2006	43		3/2/2007	3		2/8/2007	2
12/12/2006	32		3/7/2007	1		2/10/2007	1
12/13/2006	74					2/21/2007	1
12/14/2006	22					2/24/2007	1
12/15/2006	19					2/25/2007	1
12/16/2006	12					3/4/2007	1
12/17/2006	18						
12/18/2006	23						
12/19/2006	11						
12/20/2006	8						
12/21/2006	7						
12/22/2006	11						
12/23/2006	4						
12/24/2006	1						
12/25/2006	1						
12/26/2006	5						
12/27/2006	7						
12/28/2006	7						
12/29/2006	5						
12/30/2006	8						
12/31/2006	2						
1/1/2007	6						
1/2/2007	6						
1/3/2007	8						
1/4/2007	4						
1/5/2007	2						
1/6/2007	6						
1/7/2007	4						
1/8/2007	30						
1/9/2007	16						
1/10/2007	3						
Total	1,983		Total	1,187		Total	933

Table 15. Summaries of form letters received in support of Alternative 2 (Package 2R from the central coast regional working group process) that were included in the Pre-adoption Statement of Reasons. Items shown in bold type are corrections to these tables based on the final recount of these letters.

Date Received	Form Letter D Number of comments Received		Date Received	Form Letter E Number of comments Received		Date Received	Form Letter F Number of comments Received
10/6/2006 & 10/30/2006	1		10/11/2006	3		9/11/2006	2
9/8/2006	3		12/18/2006	1		9/13/2006	1
9/11/2006	6		12/30/2006	1		9/17/2006	1
9/23/2006	1					9/19/2006	1
10/2/2006	1					11/2/2006	1
10/6/2006	3						
10/9/2006	1						
10/13/2006	2						
10/19/2006	2						
10/20/2006	1						
10/21/2006	1						
10/26/2006	2						
10/27/2006	1						
11/1/2006	4						
11/2/2006	1						
11/3/2006	1						
11/4/2006	1						
11/6/2006	1						
11/9/2006	2						
11/11/2006	1						
11/20/2006	1						
11/22/2006	1						
11/27/2006	2						
11/28/2006	9						
11/29/2006	3						
11/30/2006	4						
12/1/2006	1						
12/5/2006	2						
12/6/2006	4						
12/8/2006	1						
12/14/2006	3						
12/22/2006	1						
12/27/2006	1						
12/31/2006	1						
1/10/2007	4						
1/11/2007	2						
1/12/2007	1						

Date Received	Form Letter D Number of comments Received		Date Received	Form Letter E Number of comments Received		Date Received	Form Letter F Number of comments Received
1/17/2007	2						
1/23/2007	1						
1/25/2007	2						
1/27/2007	1						
1/29/2007	1						
2/1/2007	3						
2/2/2007	5						
2/3/2007	1						
2/5/2007	2						
2/11/2007	1						
2/18/2007	1						
2/20/2007	3						
2/21/2007	1						
2/27/2007	1						
3/1/2007	1						
3/2/2007	2						
3/3/2007	1						
3/7/2007	2						
Total	108		Total	5		Total	6

Examples of form letters that were included in the pre-adoption Statement of Reasons

Form Letter A example

John Carlson, Executive Director
California Fish and Game Commission
1416 Ninth Street
Sacramento, CA 95814

Dear Mr. Carlson and members of the commission,

California's coast defines the state, and all of us who live, work and play here have a responsibility to see that our coastal waters thrive for future generations. This is why I support the commission's proposed regulations for marine protected areas along the central coast.

Marine reserves are an investment in the future health of our coastal waters. Scientific studies confirm that these areas harbor more and bigger fish and support a greater diversity of life than fished areas. With the oceans facing serious problems from years of abuse, California has the chance to take real action to help restore them.

The commission's proposed regulations account for the needs of fishermen by leaving more than 80 percent of the region open to fishing. The divers, scientists, teachers, fishermen, local business owners and central coast residents who participated in this process asked for more protection than the commission has proposed; the state certainly deserves no less.

We are facing a new era where we manage oceans for their long-term health, not just our short-term needs; in the end, when we protect the ocean, we all benefit. I urge you to adopt the proposed network of marine protected areas for the central coast and expand it along the rest of the coast as soon as possible.

Sincerely,

Form Letter B example

Jan 22, 2007

Mr. John Carlson
1416 Ninth Street
Sacramento, CA 95814

Dear Mr. Carlson,

California's coast is a public trust that belongs to all current and future citizens of our State. A strong and effective network of marine protected areas (MPAs), including marine reserves, will help protect our ocean heritage for future generations to use and enjoy. I support the proposed regulations for marine protected areas on the central coast and I urge the Commission to adopt no less protection than is contained in the "preferred alternative."

The Commission's "preferred alternative" represents a balanced approach, protecting some of the central coast's special ocean places like Año Nuevo, Point Sur and Piedras Blancas, while leaving much of the coast open to continued commercial and recreational fishing. Independent economic analysis demonstrates that the "preferred alternative" would result in minimal economic impacts in the short-term. In the long-term, marine protected areas are an investment in a healthy ocean and sustainable fisheries. This protection will pay dividends for decades to come.

In August 2006, your Commission selected as its "preferred alternative" an MPA network that reflected significant compromise. Many California residents, myself included, supported greater protection for our coast and ocean. I urge that the Commission adopt no less protection than the "preferred alternative" to ensure that California's ocean habitats receive adequate protection under the Marine Life Protection Act.

Please move forward to adopt and implement the "preferred alternative" network of marine protected areas for the Central Coast as quickly as possible. I also support all efforts to expand the MPA network along the rest of the California coast in a timely manner.

Sincerely,

Form Letter C example

Jan 29, 2007

Director John Carlson
California Fish & Game Commission
Sacramento, CA 95814

Dear Director Carlson,

As a supporter of Defenders of Wildlife and the wildlife that California's unique coastal waters support, I am writing to urge adoption of the "Preferred Alternative" to implement the Central Coast portion of the 1999 Marine Life Protection Act.

The state has many state parks to protect our most important areas on land. It's time we offer the same protection to the ocean. We need a network of marine reserves to restore and manage our ocean life for future generations. These marine reserves work. This is why I support the "Preferred Alternative."

In August 2006, your Commission selected as its "Preferred Alternative" a Central Coast MPA network that reflected significant compromise. This plan takes a balanced approach that has broad support among conservationists, fishers, divers, and residents.

I urge that the Commission adopt no less protection than the "Preferred Alternative" to ensure that California's ocean habitats receive adequate protection under the Marine Life Protection Act.

The "Preferred Alternative" strikes a balance by placing only a fifth of the Central Coast's waters in protected areas, while leaving more than eighty percent open to fishing.

I urge the Commission to support this plan and all efforts to expand the MPA network along the rest of the California coast in a timely manner.

Sincerely,

Support for 2R form letter D example

Dear President Flores and members of the Commission:

California's coast and ocean are an important part of what makes our state such a great place to live or visit. I urge you to support the strongest possible protections for our oceans by adopting package 2R.

Sincerely,

Support for 2R form letter E example

Dec 30, 2006

Michael Flores
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

Dear President Flores and commission members,

I urge the commission to recommend Marine Life Protection Act Package 2R as the state's preferred alternative. This package strikes a balance by placing nearly a fifth of the central coast's waters in protected areas and leaving more than eighty percent open to fishing. Increased protection for this region is long-overdue: currently less than 4 percent is protected.

Package 2R received high marks from scientists and the Governor's Blue Ribbon Task Force. A broad coalition including divers, scientists, teachers, fishermen, local business owners, and central coast residents helped devise the package.

Scientific studies have confirmed that marine reserves work: they harbor more and bigger fish and support a greater diversity of life than fished areas. Today seven kinds of Pacific red snapper are known to be in serious trouble, and we don't even know the status of many of the other California fish we eat. The state has an extensive system of state parks to protect some of our most important areas on land. It's time we offered the same protection to the ocean.

Through implementation of the Marine Life Protection Act, California is poised to become a national leader in marine conservation. Please endorse Package 2R and take advantage of this important opportunity to protect our ocean resources for the future.

Sincerely,

Support for 2R form letter F example

Mr. Michael Flores
California Fish and Game Commission
Sacramento, CA 95814

Dear Mr. Flores,

I believe California's coastal waters deserve real protection. We need a network of marine reserves to restore and manage our ocean life for future generations. Please support "Package 2R" to create a balanced marine reserve network.

The state has many state parks to protect our most important areas on land. It's time we offer the same protection to the ocean. Marine reserves work. This is why I support Marine "Package 2R."

"Package 2R" strikes a balance by placing only a fifth of the central coast's waters in protected areas, leaving more than eighty percent open to fishing.

I hope the Commission will select it as the state's preferred alternative.

Sincerely,

Updated Informative Digest (Policy Statement Overview)

The Marine Life Management Act (MLMA, Stats. 1998, ch. 1052) created a broad programmatic framework for managing fisheries through a variety of conservation measures, including Marine Protected Areas (MPAs). The Marine Life Protection Act (MLPA, Stats. 1999, ch. 1015) established a programmatic framework for designating such MPAs in the form of a statewide network. AB 2800 (Stats. 2000, ch. 385) enacted the Marine Managed Areas Improvement Act (MMAIA), among other things, to standardize the designation of Marine Managed Areas (MMAs), which include MPAs. The overriding goal of these acts is to ensure the conservation, sustainable use, and restoration of California's marine resources. Unlike previous laws, which focused on individual species, the acts focus on maintaining the health of marine ecosystems and biodiversity in order to sustain resources.

The proposed regulation is intended to meet the goals described in the MLPA within the central coast study region bounded by Pigeon Point, San Mateo County, in the north and Point Conception, Santa Barbara County, in the south. These goals address an overall concept of ecosystem-based management and the intent to improve upon California's existing array of marine protected areas (MPAs). Important in developing the proposed regulation was the consideration that the central coast MPAs form a component of a statewide network.

Existing regulations (the no-project alternative) provide for 12 MPAs and one special closure covering an area of approximately 43 square miles, which represents approximately 3.8 percent of state waters within the central coast region. Of this, one fifth of the area is within no-take state marine reserves covering approximately 7.5 square miles or approximately 0.7 percent of state waters within the central coast region.

The proposed regulation establishes a network component of MPAs designed to include all representative central coast habitats and major oceanic conditions. Unique and critical habitats were considered separately to guarantee both representation and protection. The proposed regulation includes a total of 29 MPAs for the central coast region. Eight existing MPAs are included and have been expanded or, in the case of Pacific Grove SMCA and Carmel Bay SMCA, split into two new MPAs. Although the proposed regulation contains 19 new MPAs, five are directly adjacent to existing areas and can be considered further expansion of the area. In these five cases, the additional expansion is a conservation area or a park with some allowed take. Thus, the proposed regulation includes 14 MPAs that are in areas previously not designated as MPAs.

The Commission adopted the proposed changes to the regulations at its April 13, 2007 meeting. The Commission selected the "Preferred Alternative" including the following sub-options:

- Año Nuevo - Option 2 - Allow kelp harvest**
- Soquel Canyon - Option 1 - Prohibit spot prawn harvest**
- Portuguese Ledge - Option 1 - Prohibit spot prawn harvest**
- Edward F. Ricketts - Option 1 - Allow recreational hook and line fishing**
- Cambria (northern area) - Option 1 - Northerly boundaries**

Cambria (southern area) - Option 3 - Northerly boundaries and allowing kelp harvest

The proposed change adds restrictions on the amount of kelp that may be harvested on a monthly basis in certain MPAs. In order to adequately link this change to the existing kelp harvest regulations, changes are proposed to subsection 165(b). The change clarifies that if kelp is harvested from a marine protected area which limits the total take, records must be available on the harvest vessel for examination. The forms specified for reporting monthly kelp harvest are added to Title 14 Appendix A. The term “public weighmaster” is replaced in subsection 165(b)(1) with the term “certified or licensed weighmaster” to be consistent with current legal definitions.

Additionally, the existing restriction on kelp harvest in the vicinity of the Monterey Breakwater is clarified in subsection 165(c). The proposed change removes confusing language and reference to the “Chart House restaurant” and replaces it with a defined line of latitude. This change will allow the proposed language in Section 632 to remain consistent if future changes to Section 165 are made.

A variety of typographical errors in the Initial Statement of Reasons have been corrected:

- In subsection 632(b)(27)(A) 122° 21.90’ W. long. is actually 122° 21.80’ W. long. in order to match the mean high tide line as described in the maps and regulation
- In subsection 632(b)(38)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(39)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(43)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(45)(A) a missing semicolon was added after the third set of coordinates
- In subsection 632(b)(46)(A) 121° 41.24’ W. long. is actually 121° 41.25’ W. long. in order to match the boundary coordinates in the area to the south as described in maps
- In subsection 632(b)(54)(A) an unnecessary semicolon was removed after the final coordinate
- In subsection 632(b)(67)(A) a missing minutes symbol was added after the second longitude coordinate
- In subsection 632(b)(98)(A) an unnecessary semicolon was removed after the final coordinate

**Addendum to Final Statement of Reasons
Section 632, Title 14, CCR
Marine Protected Areas**

Non-duplication Statement

Subsection 36710(e) of the Public Resources Code defines the activities which are allowed in state marine recreational management areas. That definition is duplicated in subsection 632(a)(1)(D) for consistency with subsections 632(a)(1)(A) through (C) which define the allowed activities in State Marine Reserves, State Marine Parks, and State Marine Conservation Areas, to facilitate public understanding of the regulations as readers are not forced to review a separate document; and to provide clarity concerning the exceptions to such activities which are specified in subsection 632(b).

Non-substantive Changes to Regulations

The "State Marine Parks" that are listed in Section 632, Title 14, were not designated by the State Parks and Recreation Commission. These "Parks" were previously listed in Section 630, Title 14, CCR, under the Commission's authority as Ecological Reserves or as the marine component of Ecological reserves or were listed in the Fish and Game Code, by the State Legislature, as Marine Life Refuges. Therefore, consultation with, and concurrence from, the State Parks and Recreation Commission as specified in Section 36725(a) of the Public Resources Code does not apply to this rulemaking.

In several subsections of Section 632, the term "offshore" is replaced with "seaward of mean lower low water". "Offshore" is a term-of-art for "seaward of mean lower low water"; therefore changing "offshore" to "seaward of mean lower low water" is a non-substantive change.

Subsection 165(a) indicates that kelp harvesters are given a "license" not a "permit" and "companies" as well as "individuals" are entitled to apply. Therefore, regulatory text in subsections 632(b) (35), (37), (40), and (50), was non-substantively amended to read "A kelp harvester with a valid license..." instead of "Any individual kelp harvester with a valid permit..."

Summary of Primary Considerations Raised in Opposition and in Support:

Ann Maurice - Comment number 125:

Additional Comment: The Master Plan on the Department's Web Site was not the same project reviewed in the EIR.

Response: The EIR reviews the proposed regulations, which are considered a "project" under CEQA. Thus, the EIR does not review the current working draft master plan nor the Commission adopted master plan framework. Since neither of these two documents includes regulatory changes or implements a program or project, they are not subject to CEQA review. Additionally, the Marine Life Protection Act specifically exempts the adoption of the master plan from CEQA review by stating "The commission's adoption of the plan and a program based on the plan shall not trigger an additional review under the California Environmental Quality Act..." [§2859(b), FGC].

Douglas Bush - Comment number 68:

Additional Comment: The economic impact analysis makes no mention of potential impacts to the abalone aquaculture industry.

Response: The proposed regulations do not change requirements for or restrictions on the abalone aquaculture industry. Changes to kelp harvest restrictions could potentially be considered as having an indirect impact on abalone aquaculture. The proposed regulations, however, do not alter existing kelp harvest to an extent that would change the price of kelp required to feed aquaculture raised abalone. Caps on harvest in Monterey area MPAs are proposed at levels of maximum harvest and existing leases were allowed to continue. Therefore, no economic impact to the abalone aquaculture industry is expected. In addition, long-term ecological benefits of the proposed regulations should provide for a more consistent kelp resource that may provide food sources for the abalone aquaculture industry.